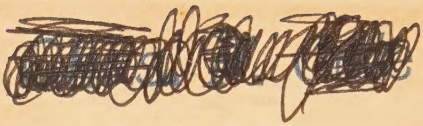
WHERE AND HOW TO FIND THE LAW

FRANK HALL CHILDS.



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WHERE AND HOW TO FIND THE LAW

A Guide

To the Use of the Law Library

BY

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Childs on Personal Property, etc.

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WHERE AND HOW TO FIND THE LAW

Introductory

It was King George III who said that if he asked a legal question of a layman, he found that he neither knew the law nor where it could be found; whereas, if he asked the same question of a lawyer, he observed that he also did not know the law, but that he did know where to find the law.[1]

King George, however, flourished over a century ago, when law books were comparatively few. If he were now living and should propound his legal interrogatories to a lawyer recently graduated from a law school, he might possibly be inclined to revise his classification so far as knowing where to find the law is concerned.

Many young lawyers, tho they may have been most brilliant students, are woefully ignorant when it comes to searching for the law; and if some older lawyers had more knowledge on this point they would find their labors much lighter. The lawyers of Abraham Lincoln's time managed to get along quite successfully with a very few books; but in those days business men got along very well without telephones and automobiles. The modern lawyer cannot be successful without having access to a large number of law books any more than the modern successful merchant could dispense with a telephone and automobiles on the plea that his grandfather did not use them. Conditions have changed in the legal profession just as they have in all professions and trades. Law books, both as to number and kind, are much more numerous than they were a century ago; and the modern lawyer must be progressive if he would attain success and become an ornament to his profession and a useful member of society.

[1]Jelf, Where to Find Your Law (3d ed.), page 1.

While many law books, no doubt, are of little value, most of them are more or less useful; and any lawyer might find it necessary suddenly to consult one or more of the thousands of law books now in use. It is wise, therefore, for him to familiarize himself with these books during his early practice, while he has more leisure, and not wait until his time has become limited and his minutes valuable.[1]

Law Books Are Tools.—A machine shop contains many tools to be used for different purposes. Some are simple, others are complex; some are used daily, others are required at intervals only; some are well made, others may be of inferior manufacture. The machinist must understand all these tools, know their purpose, relative value and utility, and how to use them properly and effectively. Law books are a lawyer's tools, and, in modern times, they are very complex tools, and their use must be learned just as that of any tool; otherwise, a lawyer will be as helpless in his practice as a physician would be who had learned from textbooks how a certain operation should be performed and had the necessary instruments, but was lacking in practical knowledge of their use. Knowledge of the use of only one book is advantageous, but obviously the more extensive his acquaintance with books, the greater a lawyer's usefulness to his clients and his power over adversaries. Law books usually do not contain any suggestions within themselves as to the manner in which they are to be used to the best advantage, the authors or compilers thereof having taken it for granted that their readers would possess the necessary knowledge on this point.

Just how many points of law there are is problematical. No one has counted them; but it has been estimated that there are about three million. One treatise[2] states that

[1] "A general acquaintance with legal bibliography is one of the things a student must acquire. . . . He must know where to refer and how to seek for information." Chief Justice Sharswood in Study of the Law (1835), page 35.

[2] Cyclopedia of Law and Procedure.

432,959 legal propositions are presented within its forty volumes; but that is not exhaustive, and new points are arising every year. It would take considerable time to read all these points, even superficially; and, if read, it would be impossible for one human mind to retain them all[1] or even a majority of the most important ones. The average memory would do well if it could be sure of ten thousand points;[2] and, even if all of them could be remembered, other persons would not be willing to accept his oral statement as to what the law is; a lawyer must be able to point out where the law is to be found. Obviously, it is imperative that a lawyer must know where to find the law, whether he does or does not know it; and not only must he know where to find the law, but he must know how to find it quickly. Knowledge of the law, then, consists largely in knowing where to find it, as well as being able to understand and to apply it when found. There is no more need of a lawyer burdening his memory with law points, if there is a repository therefor, than there is need for him to carry all his material possessions with him if he has an accessible place where they can be kept.

In the classifications[3] of American legal publications, shown on the folded insert and on the chart shown on page 4, it will be observed that they are divided into two general groups; first, those which contain the law, being of primary importance, and, second, those which are aids in finding the law as it appears in the first group, being mere labor-saving devices and of secondary importance. Our subject, then, can be presented under two general heads, where to find the law, and how to find it.

The reader is advised, if it is possible for him to do so, to examine each of the law books mentioned thruout this

[1] "Points, more than all the lawyers in Bohemia can learnedly handle." Shakespere, Winter's Tale, Act IV, Scene III.

[2] In the United States mail service, it has been observed that the average postal clerk can remember the location of about ten thousand post offices. If he attempts more, he usually loses some of his previously acquired knowledge.

[3] The classifications may not be exhaustive or perfect; a classification seldom is.

- **Aids in Finding the Law**
  - Textbooks
  - Encyclopedias
    - Corpus Juris
    - Cyclopedia of Law and Procedure (Cyc.)
    - American and English
      - First Edition
      - Second Edition
    - Encyclopedia of Pleading and Practice
    - Encyclopedia of Forms
    - Encyclopedia of Evidence
    - Ruling Case Law
    - Etc.
  - Digests
    - **General**
      - American Digest System
        - Century Digest
        - Decennial Digest
        - Second Decennial Digest
        - Key-Number Series
        - Monthly Digest
      - Federal
        - State
        - Limited Localities
    - **Special**
      - Selected Cases
      - Particular Subjects
  - Indexes, Annotations, Notes, etc.
  - Lexicons
    - Dictionaries
    - Words and Phrases
  - Citators
  - Local Practice Works
  - Periodicals

treatise, and to locate therein the various points described. If he cannot do this at the time he reads, he should do so as soon as circumstances permit.

After reading Part I of this Guide, it would be well for the reader to refer again to the charts to fix in his mind the relation which one class of law books has to the others.

The guide has been written on the theory that its readers may not possess any knowledge whatever of law books, so that some of the things said herein may appear to many as being of a "kindergarten" nature; but experience has shown that this plan is the safest. If the reader already knows certain points, it does not do him any harm to read about them; if he does not know these points, harm might result from their omission.

PART I

WHERE TO FIND THE LAW

WRITTEN LAW

Distinctions.—One classification of law given in the books[1] is the Written Law (*lex scripta*) and the Unwritten Law (*lex non scripta*), the latter being also known as the common law, or the law of precedent. The written law does not become written merely because it may have been reduced to writing or printed; but, if originally unwritten, it always remains so for purposes of classification, the exception being a constitution, statute, or treaty which embodies a common law principle without changing it.

So far, however, as finding the law is concerned, in the sense in which it is used in this guide, all the law is regarded as written, and the distinction between the written and the unwritten law would not be of any importance were it not for the fact that the written law always supersedes the unwritten law; that is, the former is of higher rank than the latter. On this basis of importance, the repositories of the law can be divided into those containing the written law and those containing the unwritten law or decisions. That part of the unwritten law which never has been reduced to writing has little place in this subject.

The three leading repositories of the written law are constitutions, statutes, and treaties.

Constitutions

Federal and State.—The Constitution of the United States of America is the supreme law of the land;[2] no

[1] 1 A. L. & P. xiii, § 11.
[2] 12 A. L. & P. 27, § 28, U. S. Const., Art. VI, par. 2.

other law can be of higher rank. Each one of the States has a constitution which is supreme within the borders of that State, tho inferior in rank to the United States Constitution and to treaties and to valid Federal statutes.

Municipal Charters.—The charter issued to a municipality is in the nature of a constitution to it, being superior to all ordinances enacted by that municipality, tho inferior in rank to all State laws of every kind.

Where Found.—There are many books containing a copy of the United States Constitution. Copies are published by the Government, and any textbook on constitutional law contains a copy.[1]

State constitutions are frequently published in pamphlet form. Whenever the statutes of any jurisdiction are published, it is customary to place, at the front, a copy of the United States Constitution; and if the volume is one containing the statutes of a State, a copy of the constitution of that State also appears. It will generally be found more convenient to refer to these copies. In 1877 the Government published a compilation of "The Federal and State Constitutions, Colonial Charters," etc., in two parts or volumes, containing copies of every constitution in force in each State at that time and previous thereto, as well as copies of the charters granted to the colonies prior to the Revolution. This treatise may prove useful if necessary to consult some former constitution or charter.

Structure.—Constitutions are comparatively short instruments, stating fundamental principles only. They are necessarily concise, much being left to implication.

The general divisions, seven in number, of the United States Constitution are known as "articles," which are numbered consecutively, Roman numerals being used. These articles are subdivided into numbered sections, Arabic numerals being used to designate them. Some of these sections are quite long, consisting of several para-

[1]See 12 A. L. & P. 376-392, App. A.

graphs; and some of the paragraphs contain several clauses. These paragraphs and clauses are not numbered in the document itself, but for convenience, if numerous, reference is made to them by mentioning their actual numerical location. Thus, if it were desired to refer to the source of the authority of the Congress over interstate commerce, the citation would be "U.S. Const., Art. I, § 8, par. 3." Amendments to the Constitution follow the body of the Constitution, and are numbered in the order of their adoption. Nineteen amendments have been made thus far (1922).

The form of a State constitution is similar to that of the United States Constitution. Generally, the first part of a constitution prescribes the form of government, then follows an enumeration of certain rights and restrictions, and, at the end, is some provision made for amending the constitution.[1]

Treaties

In General.—The subject of treaties between the United States and foreign countries is not very important in practice. Many treaties, however, enlarge the property rights of aliens; and for this or for other reasons the exact wording of some particular treaty may become essential.

Foreign.—The Government publishes, from time to time, a collection of the treaties to which the United States is a party; and these publications may be found in the larger libraries.

In 1910 the Government published a collection of the "Treaties, Conventions,[2] International Acts, Protocols,[3] and Agreements between the United States of America and Other Powers, 1776-1909," whether in force or not (but indicating such as are not in force); also the conventions negotiated at the second conference of peace held at

[1]See 12 A. L. & P. 6, § 5.

[2]A Convention is a treaty concerning commercial rather than political matters.

[3]A Protocol is a preliminary treaty or document for the opening of a diplomatic transaction.

the Hague, proclaimed February 28, 1910, two volumes; and in 1913, a supplement to Senate Document No. 357, Sixty-first Congress, second session, appeared, covering the period from January 1, 1910, to March 4, 1913, making Volume III of the collection mentioned above. This supplement contains, among other treaties, the "International Wireless Telegraph Convention" and the "Convention Concerning the Protection of Trade-Marks."

The United States Tariff Commission has published a "Hand-Book of Commercial Treaties," dealing with the preparation, negotiation, interpretation, execution, and violation of commercial treaties, and containing synopses or digests of the stipulations contained therein. This work may be procured from the Superintendent of Documents, Government Printing Office. Washington, D.C., for a nominal sum.

If not available otherwise, any treaty can be found in the United States Statutes at Large of the particular year when the treaty was concluded by the ratification of the United States Senate; altho this might require a search thru the indexes of many volumes before the desired treaty could be located. The American Journal of International Law also issues a quarterly supplement showing all the treaties negotiated during the previous three months.

Indian.—A compilation to December 1, 1902, of the treaties, laws, executive orders, and other matters relating to Indian affairs, from the organization of the Government, was published in 1904 by the Government under the title, "Indian Affairs, Laws and Treaties" (2d edition), being Senate Document No. 319, Fifty-eighth Congress, second session. Volume I contains "laws," and Volume II contains "treaties." A third volume, being Volume 27 of Senate Documents, Sixty-second Congress, second session (Senate Document No. 719), gives the laws compiled to December 1, 1913.

Statutes

Definition, Enactment.—A Statute[1] is a formal enactment by a legislative body. United States statutes are enacted by Congress; State statutes by the legislative bodies of the States.

United States Statutes at Large.—At the end of each session of Congress a volume is published by the Government containing all the laws enacted at that session, known as the "Statutes of the United States of America"; and at the close of each Congressional term all the public acts and resolutions, private acts and resolutions, and concurrent resolutions enacted during all the regular and extra sessions of that term, all treaties, conventions, executive proclamations, and amendments to the Constitution, arranged in chronological order, are edited, printed, and published by authority of Congress, under the direction of the Secretary of State. This publication is known as "The United States Statutes at Large of the United States of America"; and is sold by the Superintendent of Public Documents, Government Printing Office, Washington, D.C. Volume 41 appeared in 1921.

State Session Laws.—In a similar manner it is customary, at the close of each term of the legislative body of each State, to publish all the acts, general and special, which were passed by that body during the term. Such publications, usually known as "session laws,"[2] are generally made by officers designated for that purpose; and these publications are the original sources of the laws enacted.

Revised Statutes, Codes, Compilations.—From time to time, all the statutes in force, in each jurisdiction, are collected and published; and these publications are known by various designations, such as Revised Statutes, Compiled Statutes, General Statutes, Public Statutes, Public

[1]For the parts of a statue see 14 A. L. & P. 3, §§ 3-8, and 14 A. L. & P. 21, §§ 22a-26.
[2]In some States they are given other designations, such as "Acts of Assembly," etc

Laws, Codes, and the like. These terms are ordinarily used rather loosely, tho technically some of them have distinct meanings.

The term "revised statutes" indicates a revision or collection of existing statutes reënacted by a legislative body; and they are of authority, whether the former statutes have or have not been changed. They are usually divided into chapters and sections, and are cited by reference to the chapter and section numbers.

A "code" is the enactment, by a legislative body, of a collection of existing statutory law and of the unwritten law into a clear, compact, and a more or less systematic form. By a code, much of the unwritten law becomes written. A code is authority.

The term "compiled statutes" is properly applied to a methodical arrangement, without revision or reënactment, of the existing statutes of a State, all the statutes on a given subject being collected in one place. The work is usually performed by private persons; and the former statutes, as they were before the compilation, remain the authority.

Some editions of statutes merely give those in force at the date of publication without comment; other editions are annotated, that is, give a historical account and the decisions bearing upon each statute. Annotations are a great aid where the exact meaning of a particular statute is desired.

United States Revised Statutes.—The statutes of the United States were compiled and published in 1875, in one volume entitled "Revised Statutes of the United States," as adopted by an act of Congress of June 22, 1874. In 1878, a second edition was published. There is a supplement of two volumes, the first (a second edition) showing the statutes from 1874 to 1891, and the second volume showing the statutes from 1892 to 1901.

The Government has published "The Military Laws of

the United States, 1915," fifth edition, and "A Manual for Courts-Martial," effective February 4, 1921.

United States Statutes—Private Compilations.—By private enterprise other compilations of the United States statutes have been published. The "United States Compiled Statutes, Annotated," twelve volumes, cover all the laws of a general nature enacted by Congress down to September 8, 1916, with annotations to all decisions construing the statutes. The last volume contains a "Table of Sections of the Revised Statutes," showing where they appear in the Compiled Statutes; a "Chronological Table of Laws," by date of act, showing where they appear in the Statutes at Large, by volume and page, in the Revised Statutes and in the Compiled Statutes; a table of "Acts Cited by Popular Name," such as the "Bankruptcy Act," the "Carmack Amendment," the "National Bank Acts," etc., and a general index. A supplement of two volumes covers the laws to March 4, 1919. There is also a "compact edition" of the Compiled Statutes in one volume, without annotations, covering the laws to July 16, 1918, with a supplement covering the laws thereafter to March 4, 1919. Pamphlets issued at short intervals supplement each edition of the Compiled Statutes. In both editions of the Compiled Statutes the section numbers of the Revised Statutes are preserved, so that citations to the latter can be used.

Another compilation of the United States statutes is "Federal Statutes Annotated," the second edition of which, in twelve volumes, covers the laws to January 1, 1916. Volumes 10 and 11 are devoted to the Constitution. Volume 12 contains a "Table of Revised Statute Sections," showing the volume and page where they can be found in the Federal Statutes, and an index. Supplements are published annually.

The "United States Statutes, Annotated," seven volumes, was published in 1919. "Barnes Federal Code,"

one volume, covers the laws to 1918; and a supplement covers the laws to 1922.

United States Statutes—Rank.—United States statutes and treaties are of equal rank, being inferior only to the United States Constitution.[1] The reason why treaties and United States statutes rank equally is because, under the United States Constitution, treaties must be ratified by the United States Senate before they can become operative,[2] thus making them, in effect, legislative acts. The result is that if a treaty and a United States statute are in conflict, that is, inconsistent, the latest, in point of time, will be given effect.[3]

State Statutes—Compilations.—In each State are compilations of its statutes, variously known as "Revised Statutes," "Codes," "Compiled Laws," etc. In some States a complete new edition of the statutes is published after the adjournment of a legislature which has enacted new laws, the last edition showing all statutes in force in that State at the time of its publication. In other States the statutes are published at longer intervals, and the legislative enactments since the last publication must be learned from the session laws.[4]

California, Colorado, Idaho, Iowa, Montana, North Dakota, South Carolina, and South Dakota are code States. Some of the other States have a part only of the law codified, such as Codes of Civil Procedure or Criminal Codes.

State Statutes—Rank.—A State statute is inferior in rank to the United States Constitution, to treaties, to United States statutes, and to the constitution of the State.

Private Acts.—A private act is one which concerns

[1]See U. S. Const., Art. VI, § 2.

[2]U. S. Const., Art. II, § 2, par. 2.

[3]14 A. L. & P. 20, § 22; Ribas *v.* United States (1904), 194 U. S. 315; 48 L. Ed. 994, 24 S. Ct. 727.

[4]The state statutes and the city ordinances may usually be found in public libraries.

designated individuals, affecting only their private rights.[1] Private acts are published in the Statutes at Large if enacted by Congress, and in the session laws if enacted by a State legislature, but they do not appear in a general edition of the statutes. To find a private act, reference must be made to a copy of the Statutes at Large or to the session laws of the year in which the private act was passed.

Municipal Ordinances.—Ordinances, which are in the nature of local statutes, are usually published from time to time by the municipalities which enact them. They are inferior in rank to the statutes of the State in which the municipality is located.

Rules of Court

Every court of any importance adopts rules, from time to time, for the guidance of those practicing therein. These rules are usually printed; and copies thereof can be obtained on application to the clerk of the court prescribing them. If the decisions of a court are printed, the rules usually appear in some volume of the reports, the back of such book indicating the presence of such rules therein. Rules of court should be scrupulously observed in practice, as courts are not inclined to be patient with anyone violating them.

UNWRITTEN LAW

Decisions—In General.—Next in rank of authority, after the written law, is the unwritten law as evidenced by the decisions rendered by the courts of appeal thruout the country. The books containing the unwritten law are vastly more numerous than those containing the written law. Generally, any party to a suit in a trial court who is not satisfied with the decision of that court, has the right to appeal his case to a higher court. If the case originated in a very inferior court and involved an

[1]See 14 A. L. & P. 7, § 14.

important principle of law, it might be possible for several successive appeals to be taken. The highest court to which an appeal can be taken on any particular point is called a "court of last resort."

A decision by a court of last resort fixes the principle of law involved in that case, not only for the parties to that particular suit, but for all persons within the jurisdiction of that court. The case thus becomes a precedent for those principles in that jurisdiction; and this precedent and the precedents of other decided cases result in a system of rules of law on which everyone can rely in his business transactions, and by means of which lawyers are enabled to give intelligent advice for the guidance of their clients. Following precedents is known as the doctrine of *stare decisis* (Latin, "to stand decided"), which means that when a point or principle of law has once been officially decided or settled by the ruling of a competent court in a case in which it is directly and necessarily involved, it will no longer be considered as open to examination or to a new ruling by the same tribunal, or by those which are bound to follow its adjudications, unless the new case is an exceptional one and the reasons for a different ruling are urgent. The object of this doctrine is to impart such certainty and stability to the law that everyone may know the extent of his various rights and duties, and thus be enabled to govern his conduct in such a manner as to escape litigation. It has been very much criticized for working injustice in many instances; but it is better to have a fixed rule, even tho perhaps a poor one, upon which everyone can rely rather than uncertainty. Every fixed rule, however wise, works a hardship to some persons

Reports

Official.—In the United States, written opinions are filed in the courts of appeal rendering them, which are accessible to the public; and in every jurisdiction there is

someone, known as a "reporter," who, by authority of law, publishes these decisions in a series of consecutively numbered volumes, in order that the public may know what the law is. These sets of reports are called "official," to distinguish them from reports published by private enterprise.

United States Supreme Court.—The highest court in the country is the Supreme Court of the United States; hence, its decisions concerning Federal matters rank higher than those of the highest courts in each of the States. There are at present 256 volumes of reports of the decisions by this Court. The new volumes, as printed, are for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C.

United States Inferior Courts.—The decisions of the inferior courts of the United States from 1789 to 1879 appeared originally in a number of volumes designated by the names of the reporters. Later, all of these decisions and many others not formerly reported, making over 18,000 in all, were arranged alphabetically, numbered consecutively, and annotated, and are now published in thirty-one volumes in sixteen books known as the "Federal Cases." In the back of Volume 30 are several ancient maritime laws on which the modern admiralty law is based. The last volume is a digest, which contains also a table of citations giving the United States Circuit and District Court reports alphabetically and by volume and page, with the corresponding number of the case in Federal Cases, and a table of cases. All of the decisions of the United States Circuit and District Courts, beginning with the year 1880, and all the decisions of the United States Circuit Court of Appeals, are published in a series of volumes known as the "Federal Reporter" (which is a part of the National Reporter System), there being 279 volumes to date. There are also reports issued of the decisions of the United States Court of Claims,

which is the court established by Congress in the city of Washington to permit suits to be brought against the United States. Thus far, 56 volumes of these reports have been published by the Government. Reports have been printed also of the decisions of the Court of Customs Appeals, there being now 10 volumes of them.

Commissions and Officers.—There are many commissions, departments, and officials of the United States who render decisions having the force of law in many cases, until overruled by a decision of a competent court. Reports of these decisions, published by the Government, are usually found in law libraries. Some of the most important of these United States commissions, departments, and officials are the Interstate Commerce Commission, Volume 65 of whose reports was published in 1922; the Federal Trade Commission's decisions, of whose reports Volume 3 was published in 1921; the Attorney General of the United States, Volume 32 of the reports of his opinions advising the President and the heads of the Departments in relation to their official duties was published in 1922; the Commissioner of Patents, reports of whose decisions in regard to patents, copyrights, and trade-marks are published annually; the Department of the Interior, Volume 47 of whose decisions relating to public lands was published in 1921; the Treasury Department, Volume 40 of whose reports under customs and other laws and Volume 23 of whose reports under internal revenue laws were published in 1922; the Comptroller of the Treasury, Volume 27 of whose decisions was published in 1921; the War Department, Appeals Section, Claims Board, Volume 7 of whose decisions was published in 1921; and the Post Office Department, whose rulings appear in the "United States Official Postal Guide" published annually in July, with eleven monthly supplements.

Many of the States have railway commissions, insurance commissioners, commissioners of labor, and other officials,

reports of whose decisions are published at intervals by the State.

Number.—There are at the present time over ten thousand volumes of United States and State official reports reporting about one million decisions; and every four years about one thousand volumes, reporting nearly one hundred thousand decisions, are added. Space does not permit, in this guide, of a further enumeration of the various official reports; but if the reader is sufficiently interested, let him write to one of the large law publishing companies for a copy of its general catalog of law books, which contains a list of the various State reports as well as a large amount of useful information on other points.

Structure.—The modern volume of reports usually contains, in addition to the decisions reported, a title page, a list of the judges constituting the court which rendered the decisions contained therein, a table of cases reported, a table of cases cited, and an index. At intervals a report may contain something more, such as the rules of the court, a table of the decisions from which appeals have been taken, some special order of the court, or a eulogy on some deceased member of the court. The back of the volume usually indicates the presence therein of anything unusual of this character.

The title-page usually names the period during which the cases reported in the volume were decided.

The table of cases reported usually appears in the front of the volume, and is an index of the titles of the cases reported therein, showing the page where the beginning of the report of each case is to be found. Sometimes these cases are indexed by both the "straight" and the "reverse" titles, that is, not only by the names of the plaintiffs but by the names of the defendants as well, so that the title of each case appears twice. Thus, the case of "Smith *v.* Jones" would appear not only in its proper order under "S," but would appear also under "J," as "Jones, Smith

v." The object of this is to enable a person to locate a case readily if he should remember the name of the defendant only. The table of cases reported may be useful in correcting an erroneous page number in a citation. Thus, a person has been referred to a case as being in a certain volume on a designated page. On turning to that page the case sought is not found, but by looking at the table of cases reported the correct page in that volume can be learned. The table of cases reported may also prove useful if a person does not know the exact volume containing the case which he seeks, but does know that it appears in one of three or four consecutive volumes. Thus a lawyer, being at his bookcase, wants to look at a case which he knows was decided in a certain State in a certain year, and he knows which three or four volumes contain the decisions rendered during that year. By glancing thru the tables of cases reported in each of these three or more volumes he can locate the case he seeks much sooner than in any other way—possibly it might be in the first volume he takes up.

The table of cases cited is an alphabetically arranged index of all the cases mentioned by the court in the opinions appearing in the volume. It usually appears after the table of cases reported, in a little smaller type; and the young lawyer is cautioned against confusing the two. Sometimes it is placed in the back of the volume.

The index, at the back of the volume, is more or less complete, according to the ability and energy of the reporter, and undertakes to show each subject passed on in the cases appearing in the volume, giving the page where the cases, dealing with each of the subjects, can be found. In some of the older reports this index is quite unsatisfactory. The index is useful, when a new volume of reports is received, to ascertain what points are covered by the decisions therein; and it may prove useful also when it is known that a volume contains a case on a certain subject, but the title of the case has been forgotten.

Advance Sheets.—As a bound volume of any series of reports is not published until sufficient matter has accumulated to fill it, it necessarily results in the holding of the first decisions rendered after the preceding volume has been issued, until there are enough more to justify the publication of the next volume. Even after enough material has been accumulated to fill a volume, there is necessarily considerable time consumed in its printing, indexing, and binding before the book is ready for delivery. Hence, it is customary, as soon as a part of the volume has come from the press, to issue such part in pamphlet form; and these paper-bound copies are known as "advance sheets." They are portions of the next volume issued in advance of final publication, being paged as they will appear in the bound volume. Advance sheets enable the enterprising lawyer to obtain the decisions right down almost to the date of his search for the law.

Cases

Arrangement.—A complete report of a case, appearing in a volume of reports, usually contains the title of the case, a syllabus, a brief history of the case, the names of the lawyers taking part on each side, the name of the judge who prepared the opinion, a statement of the facts out of which the litigation arose, an opinion, a decision by the court, and its judgment.

Title.—The title of a case gives the names of the contesting parties; and, unless otherwise indicated, the name of the appellant (the one who appealed the case) appears first, followed by the name of the appellee or respondent, the names of the two parties being separated by the Latin word *versus,* meaning "against," which usually is abbreviated to "*v.*" or "*vs.*" Sometimes, instead of *versus,* the Latin words, *ad sectum,* meaning "at the suit of," and abbreviated to "*ads.*," are used, indicating that the latter party is the plaintiff and the first is the defendant. The names of the parties are designated as briefly as possible,

usually the surnames only being given; and if there are joint parties, the name of but one of them may be mentioned.

Syllabus.—The syllabus[1] or headnote is a brief statement of the propositions of law decided in the case, being in the nature of a table of contents of the case. The modern method is to number each proposition in the syllabus, and to indicate, by corresponding figures, the exact place in the decision where the point mentioned in the syllabus can be found. Sometimes, especially in the older reports, the syllabus is inaccurate or misleading, and it is not safe to rely on it without first verifying it from the decision. Generally, the syllabus is not a part of the decision, tho sometimes it is prepared by the court and takes the place of the opinion.

History.—Following the syllabus is usually a brief statement showing the file number of the case in court, the date of the decision, the nature of the cause of action, the name of the court from which the appeal was taken, and, if the decision of the lower court was reported, where such report can be found; and sometimes the final action on appeal is briefly indicated.

In some of the older reports a synopsis of the briefs of the opposing counsel precedes the opinion of the court, this statement of the arguments of the attorneys sometimes being so lengthy that a student may be confused thereby and mistake it for law laid down by the court.

Name of Judge.—Next follows the name of the particular member of the court to whom was assigned the duty of writing the opinion which follows. Sometimes the Latin words *per curiam*, meaning "by the court," appear instead of the name of the judge, indicating that the opinion is anonymous or that its wording was agreed upon by the court collectively. Such opinions are usually very brief.

[1]From the Latin, meaning "list"; plural, *syllabi*.

Facts.—The facts out of which the controversy arose may be stated before the opinion, or they may appear in the opinion itself. In either case the facts frequently do not appear as completely or clearly as they should for a full and quick understanding of the case. Sometimes the facts must be gathered piecemeal from the whole opinion, and sometimes many of them must be implied. The judge, being conversant with the facts as he writes the opinion, seems to think that his readers will be equally so.

Opinion.—The opinion is a statement of the reasons for the decision. Tho prepared by one of the members of the court, it subsequently is adopted by a majority of them. In addition to the opinion adopted by the court, there may be more or less brief concurring or dissenting opinions, or both.

A concurring opinion is one by a member of the court, whose name is appended, who agrees with the result attained but wishes either to state the reasons more fully or give additional reasons, or who does not agree with the arguments used in reaching the result.

A dissenting opinion is one written by a judge who does not concur in the opinion of a majority of the court. There may be two or more dissenting opinions. These usually are placed at the end of the case; and the reader must not be confused by them, as they may be longer than the opinion itself. Sometimes one or more judges merely express dissent without taking time and space to say why they do so.

Decision.—The decision is the final conclusion reached by the court as an application of the law to the facts, and is a determination of the rights of the parties.

Judgment.—The judgment is the actual formal order entered as a result of the decision, and is usually quite brief. It might consist of one word, as "Affirmed." Sometimes, when the decision of the lower court is re-

versed, the appellate court then and there enters the judgment which should have been entered in the court below. In other cases the wording of the judgment of the appellate court is, "Reversed and remanded," which means that the appellate court has found material error, and the record of the proceedings in the lower court does not show a proper determination of matters of fact, so that the case is sent back to the court below for further trial.

Illustration.—The case of Lonergan *v.* Daily, 266 Ill. 189, 107 NE. 460, is quoted here in full to illustrate the customary arrangement of a case in the reports, and to indicate the various elements as described above.

MARY LONERGAN, Appellant, *vs.* MICHAEL DAILY, Admr., *et al.* Appellees.

Opinion filed December 16, 1914.

Syllabus or Headnotes

1. SPECIFIC PERFORMANCE—*when oral contract to convey land will not be enforced.* An oral contract to convey land will not be specifically enforced unless the contract is certain and unequivocal in its terms and is established by convincing evidence.

2. SAME—*what necessary to take oral contract out of the Statute of Frauds by part performance.* To take an oral contract out of the Statute of Frauds by part performance all acts performed thereunder must be clear and definite and be referable exclusively to the contract.

3. SAME—*mere declarations of alleged promisor are not sufficient.* Mere declarations of the alleged promisor do not constitute such clear and unequivocal testimony as is necessary to establish an oral contract to convey land.

4. SAME—*when promise to make a gift of land will not be enforced.* A promise to make a gift of land will not be enforced in equity unless the promise has been acted upon by taking possession of the property and expending money in making improvements.

5. SAME—*when collecting rents and paying taxes do not show possession.* Evidence that the complainant in a bill to enforce an alleged oral contract to convey land collected the rents and paid taxes and bills for improvements, taking receipts in her own name, does not show that she was in possession under the alleged contract, where the evidence tends strongly to show that she had access to the alleged promisor's money and was acting as his agent in such matters.

History APPEAL from the Circuit Court of Sangamon county; the Hon. JAMES A. CREIGHTON, Judge, presiding.

Counsel ALONZO HOFF, for appellant.

DRENNAN & LAWLER, for appellees.

Judge Mr. JUSTICE CARTER delivered the opinion of the court:

This was a bill filed by appellant, Mary Lonergan, in the circuit court of Sangamon county, against appellees, Michael Daily and Sarah E. Murphy, as heirs-at-law of Patrick Daily, deceased, and said Michael Daily as administrator of said deceased, pray-

Statement of Facts

ing for specific performance of a parol agreement for the purchase of real estate, or, in the alternative, to recover for money and board furnished said Patrick Daily, and for an accounting. After the pleadings were settled the cause was referred to a master in chancery to take evidence. He reported, recommending that the bill be dismissed at the complainant's costs for want of equity. After a hearing in the circuit court a decree was entered in accordance with the recommendations of the master. This appeal is from that decree.

The deceased, Patrick Daily, was an uneducated man about seventy-three years of age and had resided on a farm in Illinois much of his life. His wife died while he was living on the farm. He had a grown son and daughter, who were living, with their families, away from him. He was considered a man of means, owning two farms and some chattel property. In 1908 he moved to Springfield, Illinois, and shortly thereafter went to board with the appellant at her home in that city. Her sister and niece made their home with her, and she also had boarding with her a part of the time another elderly man. Daily boarded in her house for some three or four years and up to the time of his death, on July 26, 1911. During the year 1909 he purchased the premises here in controversy, being a house and lot in Springfield located near where appellant resided. She claims that Daily on January 24, 1910, verbally agreed to convey said premises to her for the sum of $1550, which she that day paid him, and also in payment for two years and ten months' board then due her, and on the further condition that she would keep and care for him during the rest of his life. The brother of appellant is the only witness who testified to this agreement being made on the date above referred to. He also testified that Daily told him about a year later, shortly before his death, that he was going down-town in a few days to make a deed conveying the premises to appellant. There is testimony of other witnesses tending strongly to show that the brother was not in Springfield on the date that he claims he had this last talk with Daily. The evidence shows that appellant did pay to the deceased, on January 24, 1910, $1550, but the evidence also clearly shows that in December, 1908, Daily loaned appellant $1600, to be used by her as part payment for another piece of property in Springfield which she had then purchased. Appellees claim that the $1550 paid to the deceased by appellant was in re-payment of this loan. The record does not show any payments by the deceased to appellant for room and board, but it is shown that she collected rents on the property in controversy at the rate of $23 a month after this purchase until the time of his death, and that the deceased collected rent from his farms and drew a considerable amount of cash from the bank during the period he was boarding with appellant. Counsel for appellees argue that as it cannot be shown where this money has gone, it reasonably follows that it was used by the deceased in paying his board and other expenses, including the repairs and improvements on the property here in controversy. These improvements, such as electrical fixtures, awnings and screens, counsel for appellant claims she paid for out of her own money. The tenant of the property testified that appellant stated to her on several different occasions that the rent money from the

property went to pay Daily's board. Another witness testified that the appellant made the same statement to her. Appellant claims that her possession of the premises is shown by the fact that she collected the rents and paid bills for improvements and taxes, taking receipts in her own name, and her open claim of ownership and conduct in that regard. The evidence tends strongly to show that appellant, during all the time the deceased, Daily, was living with her, had access to his cash. It is impossible to tell from the testimony whether she paid these expenses out of her own money or out of Daily's money. It is not claimed that she ever occupied the premises in controversy, and the tenant, Mrs. Myers, testified that she never understood that she was paying the rent to appellant as the owner, but that appellant was simply acting as the agent of Daily. Since Daily's death his administrator had collected the rents and had possession of the property.

The rule is well settled in this State that a parol contract for the conveyance of real estate will not be specifically enforced in a court of equity unless it appears to be certain, definite and unequivocal in its terms; that to take it out of the Statute of Frauds on account of part performance, all acts performed thereunder must be clear and definite and referable exclusively to the contract; that the proof upon which the conveyance is asked must

Opinion

be established so convincingly as to leave "no reasonable doubt in the mind of the court." (*Langston* v. *Bates*, 84 Ill. 524; *Seitman* v. *Seitman*, 204 id. 504; *Casstevens* v. *Casstevens*, 227 id. 547; *Vail* v. *Rynearson*, 249 id. 501; *Patterson* v. *Patterson*, 251 id. 153.) Mere declarations of the promisor or donor do not constitute such clear and unequivocal testimony. (*Worth* v. *Worth*, 84 Ill. 442; *Geer* v. *Goudy*, 174 id. 514.) The rule is also firmly settled that equity will not enforce the promise of a gift of land unless the promise has been acted on by taking possession of the land and there has been an expenditure of money in making improvements by the person requesting such enforcement. *(*Ranson* v. *Ranson*, 233 Ill. 369; *White* v. *White*, 241 id. 551.) The competent evidence in the record falls far short of being so clear, definite and unequivocal as to warrant the relief prayed in this bill. Indeed, the evidence relied upon to support appellant's contention is of a most unsatisfactory character. The great weight of the competent testimony clearly fails to support the allegations of the bill.

The briefs discuss at some length the competency of certain witnesses. In view of the conclusion already reached it is unnecessary to consider or decide those questions.

Decision

The decree of the circuit court will be affirmed.

Judgment

Decree Affirmed.

*See 6 A. L. & P. 193.

Memoranda Decisions.—Sometimes an opinion rendered in an appellate court does not relate to a point of law, so that the result would not be of interest to anyone but the parties to the case; or the decision merely lays down a well-established principle of law. In such cases it is deemed inadvisable to take space in the report to print the opinion in full, and a very brief statement of the conclusion of the court is all that appears. Such a decision is called a "memorandum" decision; and a decision of this kind is usually indicated by a dagger (†) before the title of the case. Memoranda decisions are usually placed together after the other decisions.

Citation.—A case is cited, that is, the place where a report of it can be found is indicated, by giving the volume of the report containing it and the page in that volume where it begins, the number of the volume preceding the name of the report, which is usually abbreviated, and the page number following the name of the report. Sometimes the year in which the decision was rendered is given in parenthesis (1922), this showing whether it is a recent one or not; if the year appears in brackets [1922] it is a part of the citation, and indicates the volume. This method of numbering the volumes by the years instead of by arbitrary numbers is comparatively recent. It has the advantage of showing the date of the decision, but there is the disadvantage at times in a person not feeling sure whether the set of reports is complete, as several volumes may be issued in one year, in which case they are distinguished by volume numbers or by letters of the alphabet as well as by the years· thus, [1922] 1, [1922] 2, etc., or 1922A, 1922B, etc.

The original method in England was to designate reports entirely by the name of the reporter who collected the decisions; tho sometimes reports are designated by the name of the judge whose decisions have been collected. The method of designating reports by the name of the reporter was followed in the early American reports; but

now all official reports are indicated by the name of the jurisdiction. Thus, "Dillon *v.* Gloss (1921), 256 U.S., 368" means that the case of Dillon against Gloss was decided in the year 1921 and can be found in volume 256 of the official reports of the decisions of the United States Supreme Court, beginning on page 368. In most of the jurisdictions where the method of designating the earlier reports by the reporters' names was adopted, the volumes have been renumbered as tho they originally had been designated by the name of the jurisdiction. In those cases, for convenience, it is customary to give both designations; thus, "Pawling *v.* United States (1808), 8 U.S. (4 Cranch) 219," indicates that the fourth volume of Cranch's reports is also known as Volume 8 of the United States Reports.

If there was but one volume published under the name of a reporter, it is customary not to indicate any volume number in citing cases therefrom, tho sometimes it is called Volume 1. Sometimes where more volumes than one have been published, the pages are numbered consecutively thru them all just as tho there was but one volume in different parts, in which case the volume number may be omitted, tho, for convenience in locating the page without the necessity of opening more than one volume, it is advisable that the number of the volume should be given. In many works of more than one volume the pages and sections appearing in each volume are conveniently stated on the back of it.

Reprints of Reports

When subsequent editions of reports are published, known as "reprints," the volumes and pages of the new edition do not necessarily coincide with those of the original one, owing to a different kind of type, to a different size of the volume, or to the addition or omission of matter. In such a case, however, the original numbering of the volumes and pages is retained for convenience

in locating references to the original edition. If there are more volumes than one of the original edition appearing in one volume of the reprint, the volumes of the latter are sometimes designated as "books," and numbered consecutively; but the back of each "book" shows which of the original volumes it contains. The original paging is shown at the top of each page of the reprint, but is preceded by an asterisk (*); and in the text of the reprint, where the original page begins, is a repetition of the page number preceded by an asterisk, all in brackets, thus, [*44]. This bracketed page number may appear in the middle of a word if divided at the end of one of the original pages. If much new matter, such as annotations, appears in the reprint, one of the original page numbers may be continued at the top of two or more pages of the reprint; on the other hand, if the pages of the reprint are larger than the original ones, two or more of the original pages may appear on one of the new pages, in which case the original page numbers are placed at the margin of the reprint page, opposite the point where it is shown in the text. The proper page numbers of the reprint are placed at the bottom. The original paging is designated as "star paging," and the paging of the reprint is called "bottom paging." This same plan is used in other than law reports, as where a new edition of a textbook is published.

In a few of the earlier reprints this plan was not followed, and the original paging was not retained in a subsequent edition. This is likely to cause some confusion; but in that event the case sought can generally be located by means of the table of cases. In making a citation to a case in a reprint, the page in the original edition should be given, if known, followed by the page of the reprint, if the latter is in common use, and also the volume of the latter, if different from the original one. Thus "Willis *v.* Davis (1859), 3 Minn. 17 (Gil. 1)" would mean that in volume three of the original Minnesota reports, the case

began on page 17, but in the reprint of that volume by Gilfillan it begins on page 1.

Nonofficial Reports

In General.—In addition to the official reports, many sets of reports have been and are still being published by private enterprise, which, by way of distinction, are designated as "nonofficial," tho some of them are superior to the official reports. One publishing house prints all the decisions of any authority rendered thruout the country. Other publishers bring out selected cases only.

National Reporter System.—The only set of reports covering the entire country is that issued under the National Reporter System, and published at St. Paul, Minn. Under that system are printed the decisions of the United States Supreme Court, those of the inferior courts of the United States, and the decisions of authority rendered by the courts of each of the States.

The decisions of the United States Supreme Court are published in the "Supreme Court Reporter," the publication of which began in 1882. There are 41 volumes to date, the last volume covering Volume 256 of the United States Reports. The decisions of the inferior United States courts appear in the "Federal Reporter," begun in 1880, with 280 volumes to date.

In publishing the decisions of the State courts, all the States are divided into seven groups, and the sets of reports, or units, covering them are known as the Atlantic Reporter, the Northeastern Reporter, the Northwestern Reporter, the Pacific Reporter, the Southeastern Reporter, the Southern Reporter, and the Southwestern Reporter. An additional set of reports, known as "The New York Supplement," covers the decisions of the lower courts of record in the State of New York.

The following tabulation shows the states covered by these Reporters, when they were begun, and the number of volumes to date [1922].

NORTHEASTERN REPORTER
1885 to date
Reporting every case from Massachusetts, New York, Ohio Indiana and Illinois
135 Vols.

ATLANTIC REPORTER
1885 to date
Reporting every case from Maine, New Hampshire, Vermont Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware and Maryland
117 Vols.

NORTHWESTERN REPORTER
1879 to date
Reporting every case from Michigan, Wisconsin, Minnesota Iowa, Nebraska, Dakota, North Dakota and South Dakota
188 Vols.

SOUTHEASTERN REPORTER
1887 to date
Reporting every case from Virginia, West Virginia, North Carolina, South Carolina and Georgia
112 Vols.

SOUTHERN REPORTER
1887 to date
Reporting every case from Florida, Alabama, Mississippi and Louisiana
91 Vols.

PACIFIC REPORTER
1883 to date
Reporting every case from California, Oregon, Kansas, Colorado, Nevada, Montana, Wyoming Washington, Idaho, Arizona, Utah New Mexico and Oklahoma
206 Vols.

SOUTHWESTERN REPORTER
1886 to date
Reporting every case from Kentucky, Tennessee, Arkansas Missouri and Texas
241 Vols.

NEW YORK SUPPLEMENT
1888 to date
Reporting decisions of The Intermediate and Lower Courts of Record of New York
193 Vols.

For decisions prior to the dates mentioned, resort must generally be had to the official reports.

The total number of cases reported prior to the National Reporter System was 364,222. Since then the National Reporter System has reported over 800,000 additional cases, there being now about thirty thousand new cases each year.

Unless otherwise instructed by the court, the National Reporter System does not omit any cases that are of authority; but does not report any case not of authority. For this reason, the decisions of the Illinois Appellate Courts, the Ohio Circuit Courts, and of many other inferior courts do not appear. Many decisions appear in

the National Reporter System which do not appear elsewhere.

A corps of experts is employed in bringing out the volumes of the National Reporter System, while the person in charge of the publication of the official reports may or may not possess the necessary training, ability, and accuracy. The headnotes and digests of the National Reporters are uniform, which is a great advantage over the official reports, as a lawyer who is familiar with the methods of the National Reporter System so far as his own State is concerned is equally familiar with its methods in reporting the decisions of other States, if he desires to investigate the latter.

Any changes in the rules of a court whose decisions are reported under the National Reporter System appear in front of the next volume published covering that jurisdiction.

The table of cases reported shows in parenthesis, after each title, the State in which each case was decided.

At the back of the volume is a table, arranged alphabetically by States, showing in what cases a rehearing has been denied without a written opinion. Under the topic "Statutes Construed," in the index, appear the cases in which constitutions and acts have been construed by the courts, the cases being arranged alphabetically by States. Another topic in the index is "Words and Phrases," giving a list of the terms which have been judicially defined in the cases reported.

The National Reporter System usually prints a decision before it appears in any volume of official reports. As soon as an official State report is issued, the next National Reporter covering that State will contain tables at the end of the Reporter, showing where the cases in such official report can be found in the National Reporter. The first table gives the volume and page of the late official reports, in alphabetical and numerical order without the titles of the cases, each official page number being

followed by the corresponding volume and page of the National Reporter. This enables a citation to an official report by volume and page only to be located in the National Reporter. Another table gives an alphabetical list of the cases reported in each official report, and shows the volume and page where each can be found in the National Reporter. A third blue label on the backs of the National Reporter shows what volumes of the official reports, if any, are thus tabulated therein. Collections of these tables for each unit are published in book form, which are known as "Blue Books," from their color. In each Blue Book the States covered thereby appear in alphabetical order; and, under the name of each State, the official reports thereof since the establishment of the National Reporter System, and their pages, are given in numerical order, followed by the volume and page where each case appears in the National Reporter.

Whenever all the cases appearing in a volume of the National Reporter System have been published in the official reports, a table is printed showing the page numbers of the Reporter on which the different cases therein begin, and opposite each such page number is shown the volume, State, and page of the official reports where such case can be found. These printed lists are known as "White Sheets," one copy of which is intended to be pasted inside the front cover of the proper Reporter. In an appropriate book prepared for each unit another copy of the White Sheet is pasted, so that all the White Sheets for each unit appear in one reference book.

Lawyers' Edition of United States Reports.—A non-official edition of the United States Supreme Court decisions is published, which is known as the "United States Supreme Court Reports, Lawyers' Edition." Each book of these reports contains about four volumes of the official reports, there now being 60 volumes, which include Volumes 1 to 241 of the official reports, with Rose's Notes on the cases at the end of each volume. This edition is

usually cited as "L. Ed.," thus, Good *v.* Martin (1877), 95 U.S. 90, 24 L. Ed. 341.

Selected Cases.—Some of the series of selected cases, brought out by private enterprise, are chosen generally from the mass of decisions rendered, and are such as the publishers think may be the most important and useful to the practitioner; others are restricted to one particular branch of the law.

The principal sets of reports containing such cases as are thought to be of general importance and interest to the legal profession are the American Decisions, American Reports, American State Reports, American and English Annotated Cases, Annotated Cases, the Lawyers' Reports Annotated, the American Law Reports, English Ruling Cases, and British Ruling Cases.

The American Decisions, American Reports, and the American State Reports are sometimes designated as the "Trinity Series," and contain cases decided in the State courts only. The American Decisions consist of 100 volumes, containing 15,826 cases decided during the period from 1760 to 1869 inclusive. The American Reports consist of 60 volumes, containing 9,329 cases decided during the period from 1870 to 1887. The American State Reports consist of 140 volumes, containing 20,497 cases decided during the period from 1888 to 1912. The American and English Annotated Cases consist of 40 volumes, containing American, Canadian, and English cases decided during the period from 1906 to 1916. The Annotated Cases ("Ann.Cas.") consist of 13 volumes, covering the period from 1916 to 1918, and is a continuation of the American and English Annotated Cases. The Lawyers' Reports Annotated, known as "L.R.A." and sometimes called the first series, consist of 70 volumes, covering the period from 1888 to 1905. This series was succeeded by the Lawyers' Reports Annotated, New Series, consisting of 52 volumes, covering the period from 1906 to 1914. Then followed the "third unit," 24 volumes,

covering the period from 1915 to 1918. The volumes of the third unit are not designated numerically, as is customary in a series of volumes, but each volume is designated by the year in which it was published, volumes issued during the same year being distinguished by added letters, thus, 1916A, 1916B, etc. The three series contain 25,470 cases and 13,410 notes, mostly exhaustive. For use in connection with the three series is a red bound "Desk Book," containing "A Complete Index to All L.R.A. Notes," giving volume and page. In 1919 the American Law Reports began publication, continuing the Annotated Cases and the Lawyers Reports Annotated. At present there have been 17 volumes published, five or six being published annually. The annotations appearing therein are prepared by a corps of experts, and are very helpful, as they state, define, and explain the general principles of law in each case, and apply them to various statements of facts; they compare similar cases, show divergence of opinion, and reconcile seeming difference. Each volume contains about 135 cases and 115 notes.

There are over twenty different series of selected cases devoted to some particular branch of law; but the most of them have been discontinued. The following list shows the principal series, an asterisk indicating those that have not been discontinued.

American Bankruptcy Reports. 47 volumes, to date, covering 1899-*.

American Corporation Cases, 10 volumes, 1868-1887.

American and English Corporation Cases, 48 volumes, 1883-1895.

American and English Corporation Cases, New Series, 19 volumes, 1896-1904.

American Railway Reports, 21 volumes, 1872-1881.

American Railroad and Corporation Reports, 12 volumes, 1888-1896.

American and English Railroad Cases, 61 volumes, 1881-1895.

American and English Railroad Cases, New Series, 68 volumes, 1895-1913.

Street Railway Reports, 8 volumes, 1903-1913.

American Electrical Cases, 8 volumes, 1894-1904.

American Negligence Cases, 16 volumes, 1789-1895.

American Negligence Reports, 21 volumes, 1896-1910.

Negligence and Compensation Cases, Annotated, 20 volumes, to date, 1912-*, continuing the American Negligence Reports.

Morrison's Mining Reports, 22 volumes, 1883-1907.

Public Utilities Reports, Annotated, 46 volumes, to date [1922], 1915-*.

Municipal Corporation Cases, 11 volumes, 1899-1904.

Banking Cases, Annotated, 5 volumes, 1900-1904.

American and English Patent Cases, 20 volumes, 1662-1890.

American and English Decisions in Equity, 10 volumes, 1895-1905.

American Probate Reports, 8 volumes, 1877-1896.

Probate Reports, Annotated, 14 volumes, 1897-1911, continuing American Probate Reports.

American Criminal Reports, 15 volumes, 1877-1909.

Many books of cases on certain subjects, known as "case books," are compiled for the use of students, the cases therein having been selected chiefly for the purpose of illustrating the application of the leading legal principles.

Smith's Leading Cases are selections made from English cases on various branches of the law, and has run thru several English and nine American editions; the last, with American notes, is in three volumes, and appeared in 1889. English Ruling Cases, 26 volumes, is a series of selected cases from the earliest times down to 1900, arranged topically by subjects, each group being preceded by a statement of the law, with both English and American notes and annotations. This series is supplemented by

British Ruling Cases, begun in 1911, reporting English and British Colonial cases, with annotations. Thus far 9 volumes have been published.

Several corporations are engaged in reporting the decisions and rulings in regard to certain branches of the law connected with commercial affairs. Of these there may be mentioned the "Federal Income Tax Service," the "Federal Trade Commission Service" (unfair trade), and the "War Tax Service" (estate and stamp taxes) by the Corporation Trust Company; the "Federal Income Tax Service" by the Commerce Clearing House; and the "Federal Tax Service" and the "Inheritance Tax Service" by Prentice-Hall, Inc. The information furnished by these companies is printed on perforated loose leaves for temporary binding, so that the law is kept down to date at all times.

Foreign.—The source of our common law is the decisions of the early English courts; hence the reports of those decisions may be important to the American lawyer. Originally, the opinions of the English courts were given orally, and all printed reports of them were entirely by private enterprise. One of the earliest records of precedents is a series of 16 volumes, known as the "Year Books," beginning with the year 1292 and ending in 1537. About the year 1500, private reports began to be printed, their value depending on the ability of the reporter. Some of the best[1] of the older reports appearing prior to the year 1785 are those by Plowden, Lord Coke, Saunders, F. Moore, Dyer, Leonard, Croke, Yelverton, Hobart, Salkeld, Lord Raymond, and Peere Williams. Since 1785, some of the best reports are by East, Maule and Selwyn, Adolphus and Ellis, Meeson and Welsby, and Hurlstone and Norman.

In 1865 a systematic reporting of English decisions was begun and published as the "Law Reports," with a series

[1]Students who are interested in the merits of the various English reporters are referred to "The Reporters," by J. W. Wallace.

for each court. These series were subsequently reduced in number, and, at present, they are published in but four series, namely, the Appeal Cases, Chancery Division, King's Bench Division, and Probate Division.

The older English reports are cited by the name of the reporter, thus, "Lancaster *v.* Evors (1847), 10 Beavan, 266," tho usually abbreviated. The Law Reports published between 1865 and 1875 are cited by the initials "L.R.," followed by the volume number and an abbreviation of the name of the court. Thus, "Petty *v.* Cooke (Eng. 1871), L.R. 6 Q.B. 789" would indicate that such case would be found in volume six of the Queen's Bench series of the Law Reports. After 1875 the report might be cited by merely naming the division, as "Swire *v.* Redman (Eng. 1876), 1 Q.B.D. 536." In 1891 the volumes began to be designated by placing the year of the decision in brackets, followed by the number of the volume for that year if more than one volume in a year. Thus, "Hitchings & Coulthurst Co. *v.* Northern Leather Co. [1914], 3 K.B. 907" indicates that this case is to be found in the Law Reports in Volume 3 of the decisions by the King's Bench Division during the year 1914.

There are several other series of reports of English decisions being published, among them being the Law Journal Reports, 90 volumes to date (1922), begun in 1832; Law Times Reports, 125 volumes to date (1922), begun in 1859; and Times Law Reports, 37 volumes to date (1922), begun in 1884.

A reprint of English reports, known as "English Reports, Full Reprint," has been published, the decisions by the House of Lords appearing in Volumes 1 to 11 inclusive; Privy Council, 12 to 20; Chancery, 21 to 47; Rolls Court, 48 to 55; Vice Chancellors, 56 to 71; King's Bench, 72 to 122; Common Pleas, 123 to 144; Exchequer, 145 to 160; Ecclesiastical, Admiralty, and Probate and Divorce Courts, 161 to 164. Another reprint, consisting of 149 volumes, is entitled the "Revised Reports"; but

it does not cover any of the reports prior to 1785, and only such reports since then, down to 1866, "as are still of practical utility."

The reports of the decisions by the Supreme Court of Canada and in the various political divisions of Canada may, at times, be found useful by the practitioner, as the common law prevails therein (with the exception of the Province of Quebec, in which the Civil or Roman Law prevails), and the conditions arising from the development of new regions in Canada have been quite similar to the conditions existing in this country.

AIDS IN FINDING THE LAW

In General.—We now come to the second general class of law books, designated as aids in finding the law as distinguished from the repositories of the law. They consist chiefly of textbooks, encyclopedias, digests, lexicons, and citators.

Textbooks

In General.—A textbook is a treatise which attempts, more or less successfully, to present the abstract principles connected with some branch of the law, either partially or completely, under an orderly arrangement making it easily accessible, and in a narrative form making it quickly comprehended. It is in the nature of a digest, written in a connected style, or of an encyclopedia devoted to one subject; and is divided into numbered chapters and sections, with appropriate words at the beginning of each chapter and section which briefly indicate its contents. Textbooks are very numerous, covering all branches of the law. Some are general works, others are devoted to specific subjects. Thus, one textbook might be devoted to "torts," covering that subject in one comparatively small volume, while other textbooks, still larger, might be devoted entirely to but one division of that subject, such as "negligence," "libel and slander," "unfair trade," etc.

Textbooks may be roughly divided into two classes—

those for practitioners and those for students; some try to occupy an intermediate ground, but they generally fail to accomplish either purpose satisfactorily. A treatise intended solely for a practitioner, unless the subject is a broad one, is usually exhaustive; that is, it pretends to cover every phase of its subject, and should cite all the cases bearing on that subject, down to the time of going to press. Briefer treatises, devoted more or less to the general and abstract points of their subjects, are not exhaustive, and they cannot and do not cite all of the pertinent cases; but they are useful if a person wants to refresh his memory on leading principles.

A lawyer, in his spare time, if he has any, should familiarize himself with certain good textbooks on leading subjects so as to enable him quickly to refresh his memory on leading legal principles, thus saving his time later when he may be very busy. He should become acquainted with their scope and with the arrangement adopted by each of the authors, as authors, writing on the same subject, do not necessarily follow the same classification. If the most of a lawyer's practice is to come before a certain judge, and the books usually consulted by that judge are known, it might be policy for the lawyer also to adopt those books as his counselors.

The books used by a student while acquiring his knowledge of the law frequently become the books used by him the most frequently during his early practice, as he is acquainted with them; but usually they will not suffice for his needs after his practice has grown and later treatises have made their appearance.

In making a selection of a textbook for reference purposes, attention should be directed not only to the thoroness and completeness of the text and notes, but also to its mechanical features—whether the type is easily read and the figures catch the eye readily. A large textbook is not necessarily the best; as in many other things, it is quality more than quantity which counts.

A textbook sometimes is written for a particular jurisdiction, and may not be useful to a person outside of that jurisdiction. Even tho a book does not purport to have been written for a particular jurisdiction, the text may be based upon decisions within a limited territory, and the propositions of law laid down therein in general terms may not apply universally. The author recalls one large textbook in which all the cases cited were confined to two States.

The modern textbook usually contains a title-page, a preface, a table of contents, a table of cases, the text proper, with its accompanying notes, and an index. As authors and publishers are not infallible, errors, sometimes serious ones, will creep into law books in the hurry of publication, notwithstanding the exercise of the greatest care. Sometimes these are detected before the book is bound, in which case a slip showing such "errata" appears in front of the volume. These errors should be corrected as soon as the volume is received. It may be wise, before consulting any book, to see if any errata are mentioned. This applies to other books as well as to textbooks.

The preface or introduction following the title-page sometimes contains information regarding the scope or treatment of the subject which may prove helpful to the reader.

The table of contents appears before the text proper, and usually sets forth the title of each chapter and of each section, giving the page where each begins. This table shows the order in which the author has treated his subject, and is in the nature of a classification.

The table of cases is an alphabetical list of all the cases cited in the book, and indicates the pages or sections where they are cited. In some books this table is placed before the text proper; in others it follows the text. Sometimes, to save space, the citations in the notes are to the official reports alone, the table of cases indicating where a case can be found in other reports.

In a textbook, the legal propositions must necessarily be stated briefly and concisely, and frequently two or more distinct points will appear in one sentence. At intervals in the text, numerals (or sometimes letters) in small type appear at the top of the line, known to publishers as "superior figures." These numerals are references to corresponding figures at the bottom of the page, where the author sets forth the cases, decided by courts of record, which he thinks will support and illustrate his statements, and from which the abstract statement of law in the text has been evolved. In a well-written book these decisions are arranged alphabetically according to States, so that the seeker can find the decisions, if any, in his own State without delay. If there are more decisions than one in a State, those of the highest court should be given first, and arranged chronologically. The matter at the bottom of the page is known as "notes"; and, in addition to citations, may contain illustrations and other information. Some notes are quite lengthy, extending over several pages; and sometimes the notes occupy more space than the text proper.

The author has sometimes been quite astonished to discover that many of his students did not know the meaning of certain words frequently used in other books as well as in law books, especially Latin words, such as *ante*, *post*, *supra*, *infra*, etc., which mean, respectively, "before," "after," "above," and "below." If the text or a note refers to something *ante*, it means that it has previously been mentioned; *post* indicates something which will be mentioned later; *supra* does not necessarily mean toward the top of the page, but refers to something previously and recently mentioned; and similarly, *infra* does not necessarily refer to the bottom of the page, but to something mentioned within the next few pages. These terms probably began to be used when manuscripts were written on one long scroll. *De novo* means "anew"; *ab initio*, "from the beginning"; *ad finem*, "to the end"; and

seriatim, "in regular order." The abbreviations *id.* and *ib.*, for the Latin words *idem* and *ibidem*, meaning "the same," are in the nature of ditto marks, indicating repetition. Thus, if a statement be quoted, citing the author, volume, and page where the quotation is to be found, and then follows another quoted statement, after which appears the abbreviation "*ib.*" or "*id.*," it means that the second quotation will be found in the same place as the former. "*Et seq.*" is an abbreviation of the Latin words *et sequentia*, meaning "and what follows." Thus a reference to a certain volume and page *et seq.* indicates that the matter referred to begins on the page named but will continue on the following page or pages. All these and many other similar terms are defined in any ordinary English dictionary.

At the top of each page of the text, in addition to the page number, should be shown the current chapter and section, as this is a great convenience in locating a section, and is a necessity if the index refers to section numbers instead of page numbers.

The index is intended to be an alphabetical list of the topics covered in the text, mentioning the place where each has received treatment. Unfortunately, many a well-written book is rendered almost useless for reference purposes because of a deficient index. As the president of a leading publishing company once remarked to the writer, a law book is of little value if no one knows what is in it; or, knowing what is in it, does not know where to find it. That is, a book is not much better than its index, as matter which cannot readily be found is nonexistent so far as the searcher is concerned, unless he has plenty of time and patience. An index may refer to the top paging, to the bottom paging, or to the sections of the text. Which of these methods is followed is usually stated at the beginning of the index, and also at the top of each page of the index. It may save time to ascertain, before using an index, to what the index figures refer.

An index possesses the advantage over the table of contents, in that the searcher at once is referred to the particular page where the point he seeks is treated.

There must be some limit to the size of an index. Too large an index makes it cumbersome and interferes with its usefulness. A proposition of law with its analysis might logically be placed under several different topics in an index; but, to save space and thereby to save time, it might appear fully indexed under one topic only, and after the other topics, as they appear in their proper places in the index, the topic where the subject is completely indexed is named. These directions to other topics are known as "cross references." A cross reference might be merely from the singular to the plural form of the word, or vice versa. Thus a person looking for "wharf" might find a cross reference to "wharves."

Textbooks are usually cited by naming the volume number, if more than one, followed by the name of the author and his subject, and then the page where the point to which attention is directed is to be found. The preposition "on," or a comma, is placed between the name of the author and the subject. After a book has had a successful sale and has established a reputation, subsequent editions are frequently brought out by another than the original author, tho the name of the original author is retained in describing the work, and the words "2d edition" follow its title.

It is permissible, however, to name the author first and follow this with his subject, the volume, and page. This seems to be the common practice outside the legal profession; and is sometimes used by legal writers, especially when citing nonlegal works. The following illustrate the two methods of citing textbooks:

1 Blackstone's Commentaries, pp. 123-129.
Holland, Jurisprudence (9 ed.), 242.
1 Perry on Trusts, §298.
Smith, Economics for the Accountant, Vol. 2, pp. 55-76.

Encyclopedias

In General.—An encyclopedia is a treatise in which the topics included under all branches of the law are treated separately, comprehensively, and in alphabetical order. An encyclopedia, on account of its size, avoids all duplication of matter; and, as all the law in an encyclopedia is covered by independent articles, it follows that many of the articles cannot be as complete in themselves as textbooks treating of the same subjects would be, as the latter present all the divisions of their subjects and show the relation of each division to the others. Thus, the subject of "infancy" is properly connected with "contracts" and also with "torts," and in a textbook on either subject "infancy" would be considered at length; but in an encyclopedia this subject might not be considered in connection with either "contracts" or "torts," but be the subject of an independent article in another volume. An encyclopedia, too, does not illustrate as a textbook does, tho in the notes the facts of somewhat unusual cases are set forth. An encyclopedia is not as elaborate as a textbook in the statement of general principles, but is more complete in regard to pointing out their exceptions and limitations.

The first attempt in this country to present an encyclopedia of law on a large scale was the publication of the American and English Encyclopedia of Law, consisting of 31 volumes, completed in 1895, the last two volumes being an index. A second edition, consisting of 32 volumes, was completed in 1905, the last two volumes being an index. Five supplements have been issued, the last appearing in 1908.

Encyclopedias on special subjects have also been published, such as the Encyclopedia of Pleading and Practice, 23 volumes, completed in 1902, the last volume being an index, with a supplement of 2 volumes issued in 1904; the Standard Encyclopedia of Procedure, 25 volumes, completed in 1921, with 3 supplements; the Encyclopedia

of Forms, 18 volumes, completed in 1904; and the Encyclopedia of Evidence, 14 volumes, completed in 1909, with a supplement issued in 1919.

Ruling Case Law, consisting of 28 volumes covering 377 legal titles, completed in 1920, with a supplement of 3 volumes, presents the general rules and principles of law taken from several series of selected cases.

"*Cyc.*"—In 1912, the Cyclopedia of Law and Procedure, 40 volumes, containing 432,959 propositions of law, was completed. This encyclopedia is extensively used, and is commonly referred to as "Cyc." A supplemental volume of "Annotations to Cyclopedia of Law and Procedure" was published in 1913, annotating all cases decided since the original articles were written, with omitted cases, errata corrected, and new principles announced. It contains 604,920 citations, of which 34,000 are Canadian. These citations are arranged by subjects in alphabetical order, as in "Cyc.," and each paragraph of citations is preceded by the page number and note number of "Cyc.," where such citations logically belong, such page numbers and note numbers being in numerical order and connected by a hyphen. In 1918 another volume was published, similar to the preceding, and containing the citations, numbering 557,611, since 1913. Whenever a distinctive branch of law with numerous decisions has arisen since the publication of "Cyc.," an entirely new article is written and appears in its alphabetical place. "Liability Insurance" is an instance of this. In June, 1913, a very exhaustive "Index and Concordance" or "Desk Book" was issued for use with "Cyc." This index is an alphabetical list of all the main titles in "Cyc.," all cross-reference titles, and many additional titles, and gives the actual volume and page in "Cyc." where each title is treated.

Corpus Juris.—In 1914 the first volume of Corpus Juris was published. Thus far (1922) 29 volumes of the latter have appeared, covering the subjects in alpha-

betical order down to and including "Homicide." Owing to the growth and importance of the Workmen's Compensation Acts, this subject in Corpus Juris had been anticipated, and was published in pamphlet form in 1917.

Each article in Corpus Juris begins with an analysis of the subject. If the article is unusually long, the main heads of the analysis are first given, and subanalyses appear later. Each main head of the analysis, each division, and all of the subdivisions thereof are numbered. For the main heads Roman numerals, I, II, etc. are used; the divisions of the main heads are designated by capital letters, A, B, etc.; the next divisions, by Arabic numerals, 1, 2, etc.; and the next by small letters, a, b, etc. If there be further subdivision, Arabic numerals in parenthesis, (1), (2), etc., are used for the first, and small letters in parenthesis, (a), (b), etc., for the next. Following each line of the analysis is the number of the section in brackets, and the page number showing where that particular portion of the subject is treated in the text; and these same section numbers precede the various paragraphs in the text. For convenience in locating these sections the section numbers appearing on each page are indicated at the top thereof. Following the analysis of each article are cross references to related subjects not treated in that particular article. The order of treatment of the different subjects must necessarily vary with each subject; but each topic is usually introduced by a definition, followed by a classification. After a statement of the substantive law pertaining to the subject, that is, the principles of law applying thereto, the article usually ends with a statement of the adjective law of the subject, that is, the remedies and procedure connected therewith. In the notes on each page appear the citations in support of the propositions in the text. Citations of United States cases, if any, appear first in a note; then the State cases, arranged alphabetically by States; then the English and Canadian cases, if any. If the citations are numerous,

[illegible] is given to each jurisdiction, with the name [illegible] diction at the beginning thereof. In each of [illegible]ese p[illegible]aphs the decisions of the highest court are given firs[illegible] and the decisions of each court are given in [illegible]nverse cl[illegible]onological order; that is, the latest is given first, so that the searcher sees at once which was the last decision of the highest court in that jurisdiction on that particular point. The notes also refer to the volume and page of "Cyc." where the same proposition appears; and in front of each volume is a table showing where every proposition in "Cyc.," if still the law, is located in Corpus Juris.

A volume entitled "1921 Annotations to Corpus Juris" contains annotations from all cases decided since the original articles therein were written; also errata corrected and new principles announced. The "1922 Annotations to Corpus Juris" covers Volumes 1 to 24 of Corpus Juris from the permanent annotations of 1921. The law is always growing and sending out new shoots as well as changing. The new decisions each year number about 30,000, necessitating about 100,000 citations. Annual volumes of "Annotations Corpus Juris-Cyc. Service" are issued, each being cumulative, which means that each annual volume does not begin where the former left off, but is complete in itself, containing all that appeared in former annual volumes just as tho the last volume was the only volume issued, so that former annual volumes can be discarded. In these annual volumes the same arrangement of subjects, sections, and paragraphs is used as appear in Corpus Juris. The page and note numbers of Corpus Juris, in heavy-faced type, precede each citation, showing where it would have appeared if it had been included in Corpus Juris. Each new proposition, preceded by the word "new," is stated briefly and placed under the page and section where it logically belongs, and is given a new note number and, in some cases, a new section number as well. These new numbers are

usually fractional. The absence of any pa[illegible] of them note number of Corpus Juris in an annual [illegible] in [illegible] cates that there have not been any new dec[illegible] on th[illegible] particular proposition since the date of the p[illegible]lication [illegible] Corpus Juris. Errata, if any, are correc[illegible]d in their proper places in the notations. The upper c[illegible]rner of each page of the annotations indicates the volume of Corpus Juris to which the annotations on that page relate; the left-hand page shows, in addition, the first page number of the volume of Corpus Juris appearing on that page, and the right-hand page shows the last page number of Corpus Juris appearing thereon. For all subjects after the last one appearing in Corpus Juris, all refere[illegible]ces are to "Cyc." instead of to Corpus Juris.

Digests

In General.—A digest is an index of legal propositions, showing what cases support each of the propositions. Their chief purpose is to make the contents of reports available, and to segregate, from the great mass of cases, those bearing on some specific point. While not an authority as to what the law is, they are of the greatest importance in finding the law which is of authority. There are digests made of the cases decided by the courts of the United States, and there are digests for each State. There is a digest for each unit of the National Reporter System, one for each series of selected cases, and many others.

A digest somewhat resembles an encyclopedia in its arrangement—the various legal subjects appearing in alphabetical order and being classified; and in each subdivision of the classification are paragraphs containing statements of legal propositions, followed by a list of the cases bearing on that particular point of law, giving the volumes and pages of the reports where such cases can be found.

Usually at the end of every digest is an alphabetical list of all the cases digested therein, showing under what

[illegible] and subdivision in the digest the leading points in [illegible] case appear. These tables are useful in locating a case where the volume of reports containing it are not known. They are also useful in locating other cases, if any, bearing on the same points.

To save time and space, many abbreviations are used in digests and in other law books.[1]

1. Abbreviations used in citing United States supreme court cases.

Beginning with Volume 91, in 1875, the reports of cases decided by the Supreme Court are spoken of as the United States reports, and the abbreviation U.S. is used; thus, the celebrated Northern Securities Co. case is cited as Northern Securities Co. *v.* United States, 193 U.S. 197. Prior to Volume 91 the reports are known by the name of the reporter; and his name is abbreviated in the citations thus:

Dall.	Dallas	(4 vols., 1754-1800)	Pet.	Peters	(16 vols., 1828-1842)
Cranch	Cranch	(9 vols., 1801-1815)	How.	Howard	(24 vols., 1843-1860)
Wheat.	Wheaton	(12 vols., 1816-1827)	Black	Black	(2 vols., 1861-1862)
			Wall.	Wallace	(23 vols., 1863-1874)

2. Abbreviations used in citing decisions of the supreme courts of the various states.

Current reports of most of the states are named after the states themselves, and the abbreviation of the name of the state is used in the citation thus:

Hall *v.* Burkham, 59 Ala. 349
Bunch *v.* Nichs, 50 Ark. 367
Tyndale *v.* Randall, 154 Mass. 103.

Most of the older states each have a few volumes of reports known by the name of the reporter. The following are illustrations:

Abbreviation Used	Name of Reporter	State	Abbreviation Used	Name of Reporter	State
Add. (Pa.)	Addison	Pa.	Kirby	Kirby	Conn.
Aik.	Aiken	Vt.	Lea	Lea	Tenn.
Allen	Allen	Mass.	Mart.	Martin	La.
Bax.	Baxter	Tenn.	Mart. & Y.	Martin and Yerger	Tenn.
Bibb	Bibb	Ky.	Meigs	Meigs	Tenn.
Binn.	Binney	Pa.	Met.	Metcalf	Mass.
Blackf.	Blackford	Ind.	Metc.	Metcalfe	Ky.
Brayt.	Brayton	Vt.	Minor	Minor	Ala.
Breese	Breese	Ill.	Mon. B.	Ben Monroe	Ky.
Bush	Bush	Ky.	Mon., T. B.	T. B. Monroe	Ky.
Chip. D.	D. Chipman	Vt.	Over.	Overton	Tenn.
Cold.	Coldwell	Tenn.	Pen. & W.	Penrose and Watts	Pa.
Cooke	Cooke	Tenn.	Pick	Pickering	Mass.
Cush.	Cushing	Mass.	Pick	Pickle	Tenn.
Dall.	Dallas	Pa.	Pin.	Pinney	Wis.
Dana	Dana	Ky.	Port.	Porter	Ala.
Day	Day	Conn.	Rawle	Rawle	Pa.
Fairf.	Fairfield	Me.	Rob.	Robinson	La.
Fost.	Foster	N. H.	Root	Root	Conn.
Gill	Gill	Md.	Scam.	Scammon	Ill.
Gill & J.	Gill and Johnson	Md.	Serg. & R.	Sergeant and Rawle	Pa.
Gilm.	Gilman	Ill.	Smedes & M.	Smedes and Marshall	Miss.
Gray	Gray	Mass.	Smith (N. H.)	Smith	N. H.
Greenl.	Greenleaf	Me.	Sneed	Sneed	Tenn.
Har. (Del.)	Harrington	Del.	Stew.	Stewart	Ala.
Har. & G.	Harris and Gill	Md.	Stew. & P.	Stewart and Porter	Ala.
Har. & J.	Harris and Johnson	Md.	Swan	Swan	Tenn.
Har. & McH.	Harris and McHenry	Md.	Tyl.	Tyler	Vt.
Hayw.	Haywood	Tenn.	Walk. (Miss)	Walker	Miss.
Head	Head	Tenn.	Watts	Watts	Pa.
Heisk.	Heiskell	Tenn.	Watts & S.	Watts and Sergeant	Pa.
Houst.	Houston	Del.	Whart.	Wharton	Pa.
How. (Miss)	Howard	Miss.	Yeates	Yeates	Pa.
Hump.	Humphreys	Tenn.	Yerg.	Yerger	Tenn.

For a more extensive list of abbreviations see 14 A. L. & P. 418-447.

[1]The most common abbreviations are those of the names of sets of reports. By way of illustration a brief list is given here.

Unless they are those in common use, a list of them with their meanings will appear in some place in the book, usually in front.

American Digest System.—The most comprehensive digests published are those embraced within the American Digest System, comprising four editions, known as the "Century Digest," the "1st Decennial," the "2d Decennial," and the "Key-Number Series A," covering the entire country. The Century edition digests all cases decided by American courts of last resort, Federal and State, during the years 1658 to the end of September, 1896; the 1st Decennial digests all cases decided by such courts during the following ten years, to the end of September, 1906; the 2d Decennial digests all cases decided during the next ten years to 1916; and the Key-Number Series digests the cases since the 2d Decennial, always being down to date. Thus these four editions, without overlapping one another, cover all cases decided in this country from the earliest times down to the month in which use is made of them.

The Century edition consists of 50 volumes, bound in 26 books, digesting about 500,000 cases and covering over 1,000,000 legal points. In the last volume is an index containing the main titles and cross reference heads, and showing the subject, section, and volume where each point is treated. The First Decennial digest consists of 25 volumes, covering about 225,000 cases, the last 5 volumes containing a table of all the cases in the Century and First Decennial digests, and a Descriptive Word Index. The Second Decennial digest consists of 25 volumes, with a table of all cases digested therein. The Key-Number Series A is a current digest, the volumes being numbered from 1A, 15 volumes having been published down to the present. Each contains a table of the cases digested therein, showing the subjects and section or key-numbers in the digest under which each case appears. There is also a table of the cases directly

affirmed, reversed, or modified by decisions in the digest, showing where both the original and the later case appear in the reports, and the subject and section or key-numbers for the points covered. Advance sheet pamphlets, supplementing the latest bound volume, are issued monthly. Thus far, in the American Digest System, there are approximately 4,000,000 concrete digest paragraphs, arranged in 112,000 groups, notes, or collections, containing points of law appearing in the reports, these paragraphs giving the essential facts of the cases and the rule of law applied thereto by the courts.

In the American Digest System, after the title, is a "scope note," showing briefly the character of the subject matter included under that title, and what is excluded. It is frequently advisable to read the scope note before consulting a topic of a digest, as more time may be saved thereby than has been consumed in studying the scope note. Following the scope note is an analysis or outline of the subject, showing the order in which the matter is presented. If the analysis be lengthy, the chief heads of the topics are given first, each being followed by the page where that particular division is further divided. After each division and subdivision of this analysis are figures showing in what sections and in what columns these particular divisions and subdivisions are treated. Next after the analyses come the "cross references," showing where allied subjects not treated under that particular title can be found. In the body of the digest are further divisions of the subdivisions into sections. Each section contains one or more paragraphs showing the decisions rendered by the courts on that particular point, with the names of the jurisdictions and the dates of the decisions in parenthesis. Each page of the Century digest is in two columns, each column having its number; and at the top of each page is shown the subject, the division and subdivision thereof, and the sections which appear thereon. At the beginning of each section are cross references to matters allied to the subject of that section.

In the table of cases at the end of the First Decennial digest, the names of the plaintiffs are in heavy-faced type; and at the top of each left-hand page is the name of the first plaintiff on that page, and at the top of the right-hand page is the name of the last plaintiff appearing on that page. If there are more cases than one having a plaintiff of the same name, the plaintiff's name is not repeated, the names of the defendants following in alphabetical order. Cases in which the name of but one person appears in the title are placed before those having the names of two parties. This includes such titles as "Appeal of Smith," "Estate of Smith," "Ex parte Smith," "In re Smith," etc. Corporate names are indexed under the first letter, altho it may be an initial, as "A. F. Pike Mfg. Co." will be found under "A" and not under "P." Where a State is a party to a suit, there are three methods of designating the State as a party. In some jurisdictions the word "State" is used; in others, the word "People"; and in still others, "Commonwealth"; thus, State *v.* Smith, People *v.* Smith, Commonwealth *v.* Smith. The titles under "State," "People," and "Commonwealth," in their proper places in the table of cases, have, for convenience, been divided by States, the names of the States being in alphabetical order. Names of political divisions are usually omitted, thus, "Adams County" would appear as "Adams" only, and "City of Detroit" is indexed as "Detroit"; but if a subdivision or part of a municipality is the plaintiff, the title is indexed under the designation of the subdivision or part. Thus, "Board of Education of City of Detroit" appears as "Board of Education." The capital letters "C" and "D," following each case in the table of cases, indicate whether the case is digested in the Century or in the Decennial digest; and the volume, topic, and section of the digest is given where each point of the case appears.

One of the great advantages afforded by the American Digest System results from the use therein of "key

numbers." In this system all law points of every character are distributed among 413 general topic titles, alphabetically arranged and known as the "standard classification." Many of the topics in the standard classification are designated by the parties to a relation, and not by the relation itself, such as "Principal and Agent" instead of "Agency," "Principal and Surety" instead of "Suretyship," "Husband and Wife" instead of "Marriage." Old and established legal designations are retained instead of the modern popular ones, such as "Innkeepers" instead of "Hotels," "Larceny" instead of "Theft," "Master and Servant" instead of "Employer and Employe." Related or similar terms are combined and the subjects are treated together, such as "Parent and Child," "Guardian and Ward," "Descent and Distribution," "Executors and Administrators," "Trover and Conversion," "Libel and Slander," "Weights and Measures." Important and universal statutes appear under their subjects and not under "Statute," such as "Frauds, Statute of" and "Limitation of Actions." Scattered thruout the main topic titles are numerous other titles, termed "descriptive titles" or "cross reference titles," being words regarded as not broad enough for topic titles, yet so broad that a searcher, not entirely familiar with the classification, might look for them. After each of these words is a reference to the proper place to find the point sought. The points under most of the main topic titles, in order to be treated systematically, are placed in appropriate groups or main heads, and each group or division under each topic title is numbered consecutively, Roman numerals being used. The names of these divisions are printed in capitals. In some instances, in important subjects, it is found advisable to separate these divisions into subdivisions, placed in the division of which they form a part, which are indicated by capital letters in parenthesis. Each subdivision, or each division if there are no subdivisions, is divided into smaller groups or

sections, each relating to a specific point, and each section having an appropriate title. Each of these sections is numbered by means of Arabic figures, beginning with "1" under each topic title, and running thru to the end of the subject without starting a new set of numbers for each division or subdivision. These divisions, subdivisions, and sections in each new digest issued under the American Digest System are exactly the same as those in the preceding digests, and the section numbers for corresponding legal propositions are identical. It is the number of the section which is known as the "key number," because, if the topic title and key number to any legal proposition in the American Digest System is known, the corresponding number can be located at once under that topic title in former digests and in any subsequent one. Sometimes, to facilitate search, a section is divided into smaller groups, each with its appropriate title, and these subsidiary sections are indicated by the number of the section followed by the number, in parenthesis, of the subsection. Thus, Section 9 (1) indicates the first subsection under Section 9. If new sections are found necessary in subsequent digests, they are placed where they logically should be, and are assigned the number of the section immediately preceding, with the fraction ½ added thereto.

Unfortunately, this advantageous key-number method was not adopted until after the publication of the Century digest; but if the location of a proposition in the Century digest be known, the key number of that proposition can be ascertained by means of a "pink table" in front of Volume 21 of the First Decennial digest. In this table the topic titles of the Century digest are arranged alphabetically, followed by columns containing their section numbers. After each such section number of the Century digest is given the proper key number or key numbers in subsequent digests for the proposition appearing under that section in the Century digest.

Following the title of each section in the Decennial and subsequent digests is a reference to the corresponding section of the Century digest. The digests and indexes of the National Reporter System, and many State digests, are now arranged under the Standard Classification with its key numbers; and the syllabi in the National Reporter System, the notes in Corpus Juris and in many textbooks, have references to the key numbers for the propositions therein set forth, thus making all cases, old and new, concerning that proposition at once available. In front of each volume of Corpus Juris is a table showing where the key numbers included therein are located.

To save space, a dash is frequently used before the title of a minor division. This dash is in the nature of ditto marks, meaning that the title of the division in which these dashes appear is to be read as tho occupying the place of the dash, the title of a subsection being but an addition to the title of a section.

At the beginning of each paragraph the jurisdiction of the court rendering the decision is shown, with the date of the decision. If decisions from two or more jurisdictions are shown in one section, those of the United States courts are given first, followed by those of the State courts, the States being alphabetically arranged. If there are two or more decisions from the same jurisdiction, those from the highest court are given first; and if there are two or more decisions from the same court, they are arranged chronologically, the earliest being given first. This makes the digest practically a digest of each jurisdiction.

If there were no decisions on a certain point during the period covered by a Key Number digest, the key number for that point will not appear therein. To avoid the trouble of looking thru each Key Number digest to see if any cases under a certain key number since the Second Decennial digest appear therein, a cumulative pamphlet is prepared for each volume of the Key Number series, as

issued, showing all the titles and key numbers appearing in the Key Number series, and indicating what volumes of the Key Number digests, if any, contain matter under each key number. The title and section numbers of the Decennial digests are printed in heavy-faced type, and the numbers of the volumes of the Key Number digests containing any matter belonging to each section follow in light type. Thus, if "5A" should appear after a certain key number in this pamphlet, it would mean that only in Volume 5A of the Key Number digests would anything relating to that particular key number be found since the last Decennial digest.

The title-page of each Key Number digest shows the period covered by it. Then, following the title page is a list of the reports digested in that volume. At the end of the volume is a table of the cases digested, giving the report where each is to be found, the subjects under which it has been digested, and the key number of each. Immediately following the table of cases digested is a table showing what cases have been directly affirmed, reversed, or modified by decisions included in that digest, giving the volume and page of the report where the case was reported, the subjects included in each case, and the key numbers thereof.

For use in connection with both Decennial and all Key Number digests, a Descriptive Word Index was published in 1912, which is a compilation containing every topic title in these digests, every key number section line, and every editorial reference line in the Decennials, and, in addition, thousands of catchword titles or words describing persons of a particular class, occupation, or legal relation, names of places and things, questions of law, constitutional provisions, legislative acts, and legal doctrines. Not only are the titles, in heavy-faced type, in this index arranged alphabetically, but the lines under each title are also. After each line appear the key numbers of the propositions applicable to that line.

"L.R.A."—A complete digest covering all the 146 volumes of the Lawyers Reports Annotated, including the New Series, is now being published. So far (1922) four volumes have appeared, bringing the subjects down to include "Highways." The ninth volume is to contain a table of cases, showing not only where each case can be found, but also the legal principles laid down therein. Volume 10 is to be a word index making the cases and notes on the various subjects available.

Digests of the American Law Reports, continuing the Lawyers Reports Annotated, are published from time to time.

English.—There are, of course, digests of foreign reports. English cases from 1216 to 1761 appear in Coventry and Hughes' Digest, two volumes, published in 1832. Mews' Fisher's Common Law Digest, seven volumes, covers the cases from 1756 to 1883 inclusive. Mew's Consolidated Digest, one volume, covers the cases from 1884 to 1888 inclusive; and Mew's English Case Law Digest, 16 volumes, brings the cases down to the end of the year 1907; supplemental volumes and quarterly advance sheets continue the cases. In each of the above digests are tables of cases, and other tables giving useful information about the various English reports. There are several other English digests covering either certain series of reports, certain branches of the law, or certain periods of time. In 1919, the first volume of the English and Empire Digest was published. It is annotated; and every English case from the earliest times is to be covered. Volume 8 (1922) is the latest volume issued, which brings the titles down to include "Clubs."

Miscellaneous Aids

Indexes, Annotations, Notes.—Indexes, annotations, and notes, in the restricted sense in which these words are here used, are separate and independent search-books for use in connection with other works. An index in its structure

resembles that at the back of any treatise. Instances of separate indexes or annotations have been given in connection with the Lawyers Reports Annotated, "Cyc.," and the Decennial Digests.

"Rose's Notes," 20 volumes, covering Volumes 1 to 241 of the United States Supreme Court Reports, give a judicial history and analysis of each case in those reports, setting forth where it has been cited in every Federal or State case, there being more than 450,000 of such citations.

Lexicons.—Most professions and many trades have technical dictionaries. There are several law dictionaries of various sizes, in print, one or more of which will prove useful to the student and lawyer at times. Probably the best known of these are Bouvier's, eighth edition, 1914, three volumes; Black's, second edition, 1910; and Anderson's, 1890. Some law dictionaries, like ordinary ones, merely define the various terms more or less concisely; others are in the nature of small encyclopedias. Bouvier's is of the latter class.

A person consulting a dictionary must know how to use it, as dictionaries are compiled on different plans. The writer recalls the perplexity of one of his students who had consulted a well-known law dictionary to ascertain the meaning of a certain term which had been used in his textbook, and, not having found it, promptly condemned the dictionary as deficient. The term, however, was in the dictionary, and it was at once pointed out to him; and then he marveled that he had not been able to find it. The trouble had been that he had not understood the arrangement adopted by the compilers of that particular dictionary. He might not have had any difficulty in finding the term he sought if he had used another dictionary. While every dictionary aims to arrange its contents alphabetically, there are different ways of making an alphabetical arrangement. In some dictionaries where a phrase containing two or more words is defined, its alphabetical position in relation to single words be-

ginning with the letters of the first word of the phrase is determined by excluding all but the first word of the phrase. Other dictionaries, in assigning the alphabetical position of a phrase, consider all its letters as tho the entire phrase was but one word. Thus, the phrase "In Witness Whereof" would precede "Inadequate" in most dictionaries, its place being determined by "In" alone, that is, all phrases beginning with "In" are grouped together; but in some dictionaries this phrase would appear after "Involuntary," as "v" comes before "w" in the alphabet, that is, phrases beginning with "In" are alternated with single words commencing with the letters "In," their positions being determined by the letter following the word "In."

There are many legal maxims in Latin and French as well as in English, the meanings of which are given in dictionaries. In Bouvier's Dictionary these are grouped together under the word "Maxims" in the body of the work; in Black's Dictionary they are distributed alphabetically thruout the work as other terms are; in Anderson's Dictionary the maxims are placed under the word considered of the most importance in the maxim. Thus, *Qui facit per alium, facit per se* would be found under "Maxims" in Bouvier, under "Qui" in Black, and under "Facere"[1] in Anderson.

Most dictionaries aim to give a list of the abbreviations used in law. In Bouvier's Dictionary this list is given under the head of "Abbreviations" where that word appears in its alphabetical place in the body of the dictionary; some dictionaries place the list at the end of the volume.

These illustrations will serve to impress upon a student the necessity of familiarizing himself with the dictionary he commonly consults, so as ultimately to save time.

"Words and Phrases Judicially Defined" is a treatise of twelve volumes, the last appearing in 1914, containing a

[1] *Facere* (to act) is the infinitive form of *facit* (acts); the Latin phrase meaning "he who acts thru another, acts himself," that is, the act of an agent is the act of his principal.

systematic collection, from the American reports and statutes, of the definitions of various terms under different conditions. A legal problem may turn upon the meaning of a word or phrase in everyday use; and in drawing contracts and wills, especially the latter, the technical meaning of the terms employed is very important. In the National Reporter System and in the American Digest System the list of these definitions is kept down to date.

Citators.—A citator is a compilation showing where certain cases have been cited in other cases, and whether the provisions of constitutions and statutes have been repealed, amended, or otherwise affected, or have been judicially construed, or have been cited. The mention of one case in a subsequent case may be, first, for the purpose of explaining, qualifying, limiting, or even overruling the principle announced in the former. A principle properly applicable to one state of facts may not be applicable to different facts tho somewhat similar. Secondly, a citation of one case in a subsequent one may show how much importance is attached to the former. It may indicate that the principle laid down in the former case is still recognized, the subsequent case then becoming the latest decision on the point. If a lawyer finds a case decided in another jurisdiction, and he would like to know whether the principle announced therein is recognized in his own jurisdiction, a citator may enable him to locate a case in his own State in which the same principle is applied. If he obtains a citation to a case in a series of reports which is not immediately available, a citator may show where that case may be found in another series of reports to which he has immediate access.

Several citators have been published; but the leading series is that known as "Shepard's Citations," having separate volumes for the United States courts, for each of the State courts, and for each unit of the National Reporter System. These citators, in flexible red morocco

covers, are issued at frequent intervals. In these citators the volumes of the reports with which the particular citator deals are given in numerical order, the numbers of the volumes being indicated in large figures and also shown at the top of each page. A column of the page numbers on which cases begin, follow the number of each volume. These page numbers are in heavy-faced type and are preceded and followed by a short dash. Occasionally a case is so brief that the titles of two or even more cases may appear on the same page of a report. In that event, the cases are designated in the citator as "Case 1," "Case 2," etc. The omission, in a citator, of any page numbers on which a case begins in a report indicates that such case does not appear in any other series of reports, nor has it ever been cited. Under each page number of a report in the citator is shown, first, by the letter "s," where the same case as the one beginning on that page of the report can be found in other series of reports. Then it is shown whether the case has been affirmed or reversed on appeal. Next follows, by volume and page number only, a list of the subsequent cases and L.R.A. notes in which this case has been cited, with a brief abbreviation indicating how the case has been regarded in such later cases. In front of the citator is a list of the abbreviations used therein. The syllabus or headnote of a case usually contains more than one paragraph; and the citator indicates by a small superior figure at the left of the page number of the citing case the particular paragraph of the syllabus of the cited case dealt with in the citing case. This saves the time of the searcher if he is interested in but one point of a cited case. The absence of a syllabus number indicates that the citation is not limited to any particular point in the cited case. The letter "n" to the right of a page number indicates that the citation appears in a note.

Local Practice Works.—In nearly every jurisdiction books on practice and procedure are published, giving

instructions and forms for instituting and conducting various proceedings either in all of the courts of that jurisdiction or in some particular class of courts. These treatises are useful to most lawyers, and generally a necessity for young lawyers.

In some cases, where the matter in hand may not be of vital importance and knowledge of the law or practice in another jurisdiction is quickly desired, a short cut can be taken by reference to a legal directory, several of which are published at intervals, usually annually. In these directories the names of the States appear alphabetically, and also the names of a few foreign countries. After the name of each of these jurisdictions is a concise summary of the law of that jurisdiction on some of the more important practical points, such as the requirements of a valid conveyance of land, the laws of descent, etc. Such information is generally compiled by competent lawyers practicing in that jurisdiction, so that it is reliable; and it is corrected to the date of each issue. Some of the best known of these directories are Hubbell's Legal Directory, Martindale's American Law Directory, and Sharp and Alleman Co.'s Lawyers and Bankers' Directory.

Periodicals.—Many excellent legal periodicals are published; and a lawyer should take as many of them as he can afford and has time to read, as they contain discussions of legal points by prominent lawyers who are experts on the subjects about which they write, and the articles, with their accompanying citations, are more complete in regard to their particular subjects than anything to be found in textbooks. Many fine distinctions are brought out; and many important cases and recent decisions are analyzed, compared, and criticized. Occasionally some article in a legal periodical is cited by a court or in a textbook. Thru these periodicals, too, the practitioner can keep informed about the latest legal treatises published.

The following is a list of some of the leading legal periodicals: Harvard Law Review, eight numbers a year, Cambridge, Mass.; Yale Law Journal, eight numbers a year, New Haven, Conn.; Illinois Law Review, eight numbers a year, Chicago, Ill.; Columbia Law Review, eight numbers a year, Cooperstown, N.Y.; University of Pennsylvania Law Review, quarterly, Philadelphia, Pa.; Michigan Law Review, eight numbers a year, Ann Arbor, Mich.; Cornell Law Quarterly, Ithaca, N.Y.; California Law Review, bimonthly, Berkeley, Calif.; American Law Review, bimonthly, St. Louis, Mo.; Illinois Law Quarterly, Urbana, Ill.; American Bar Association Journal, monthly, Chicago, Ill.; Central Law Journal, weekly, St. Louis, Mo.; Law Notes, monthly, Northport, N.Y.; Case and Comment, monthly, Rochester, N.Y.; Canada Law Journal, seven numbers a year, Toronto, Ontario, Canada; Canada Law Times, monthly, Toronto, Ontario, Canada.

In addition to these, there are magazines devoted to special branches of the law, such as banking, insurance, patents, trade-marks, workmen's compensation acts, international law, etc., which will prove useful to those whose practice is largely connected with these subjects.

It is a good plan, after reading a helpful article in a legal magazine, to make a note, in an appropriate place in the textbook most often used which covers the subject of the article, referring to the volume and page where the article can be found. This may save time if the article is recalled at some future time, and it is thought desirable to re-read it in connection with some matter which has arisen in practice.

Legal periodicals are so paged that they can be bound into volumes; and, at proper intervals, their publishers furnish an appropriate title-page for each bound volume, a table of the cases which have been published, reviewed, or cited therein, and an index.

General indexes are published covering the matter in all legal periodicals. One series of such indexes was

published by the Boston Book Company. In 1909 a series was begun by the American Association of Law Libraries, Volume 14 of which appeared in 1921. These volumes contain a subject index based on that of the American Digest System; an author index, showing the subjects upon which each wrote; a table of cases commented upon; and also an index to the Bar Association Reports.

Law Libraries

The demand for a book on any technical subject is limited, consequently its price is higher than a book of similar size bought by the public generally. Only a lawyer with an extensive and lucrative practice can have a fairly large private library. The legal profession, however, is the most liberal of any; and the average lawyer will allow others to use his library, on request, or at least to consult the volumes in his office. The habit of borrowing law books is not to be commended, as law books are tools, any one of which their owner may have occasion to use on short notice. It is customary for lawyers in cities to save individual expense by forming an association to purchase law books to be kept in some central location convenient to all. Such libraries, of course, are for the use of members of the association only, and of such others as may be allowed access under the rules of the association. Most universities with law departments have large law libraries. Probably the largest in the country is that possessed by Harvard University, Cambridge, Mass., containing over 200,000 bound volumes and nearly 40,000 pamphlets; and additional volumes are being added continually. Occasionally a law library is a public institution whose volumes can be consulted freely by anyone. In most law libraries a majority of the volumes consist of reports of decided cases from every jurisdiction in the country, and many from foreign countries. Textbooks are next in point of numbers; and there are statutes and digests of all domestic and of many foreign jurisdictions.

In any library the reports of the decisions by the courts in the jurisdiction in which the library is located are naturally used much more than those of other jurisdictions; and the reports of important jurisdictions are consulted oftener than those of smaller ones. Frequently, in large libraries, there are two, three, four, or more complete sets of the most used reports. The same is true of statutes, of some textbooks, and of other treatises.

Whenever a lawyer or a student has access to any library, large or small, whose volumes he may have occasion to consult, one of the first things he should do is to ascertain what books the library contains; secondly, he must ascertain the location and arrangement of each class of books. While many libraries have attendants or pages to bring books to those using the libraries, the attendants may be busy at the moment their services are desired, so that time is saved by adopting the "help yourself" plan. Generally speaking, the larger a law library the more useful it becomes to one having access to it; yet, if he is not familiar with its contents, its size may confuse him and thus become a detriment rather than an advantage.

Books are commonly arranged so that those most frequently used are most convenient of access. Reports of decisions, being consulted oftener than any other volumes, usually are in front. These reports, as a general rule, are arranged alphabetically by States, with foreign reports following. On the shelves devoted to each State, the decisions of the highest court come first, the volumes being in numerical order, or, if not numbered, in chronological order; and the reports of decisions in the lower courts follow. Volumes of official reports are usually of uniform size. The English reports are usually arranged alphabetically according to the reporter's names. Reports of any particular jurisdiction, such as the reports of the State in which the library is located, may be taken out of their regular alphabetical order and placed in a more

accessible location. Sometimes duplicate volumes are placed together; sometimes a complete duplicate set is placed in another part of the room if the library covers much space. The object in every case is to save time in walking between the bookshelves and the tables where the books are consulted. The volumes of the National Reporter System are placed together, arranged alphabetically by units. Reports of selected cases are likewise placed together with some attempt at alphabetical and chronological arrangement.

Sometimes the statutes, digests, citators, and advance sheets of a State are placed with the reports of that State; sometimes all the statutes, arranged alphabetically by States, are placed together; and the same is true of digests, citators, and advance sheets.

Textbooks may be arranged alphabetically according to authors, or according to subjects. The latter plan is not so easy, as many subjects overlap; and some subjects are mere branches of other subjects. Some libraries adopt an intermediate plan of arranging some of the textbooks alphabetically according to authors, while others treating of the more distinctive subjects are placed together. Thus, all textbooks on "Admiralty," "Insurance," "Patents," etc., might be grouped by themselves, the idea being, under such an arrangement, that the person seeking a textbook on any of these subjects would have all the volumes before him for comparison and selection; and if the particular volume he sought was not there, and he could not postpone his investigation, he might see some volume which would answer his purpose.

As new editions of statutes, of textbooks, and of digests are published, the former editions usually are relegated to more remote shelves, where they are arranged alphabetically or chronologically for reference if occasion arises. Sometimes the searcher for the law has a reference to some former edition; or the last edition happens not to

be available, and a former edition may answer his purpose temporarily.

After the location of the different classes of books is known, the next step is to become familiar with their general appearance, both outside and inside. While volumes of reports resemble each other in many ways, those of the different jurisdictions usually bear some external and internal marks which distinguish them. A lawyer should be able to recognize a desired book if it, either open or closed, has been left on a table. After a person has become familiar with one library, he does not have much difficulty in adapting himself to another altho the methods of the latter may be somewhat different.

A large library generally has a printed catalog of the books contained therein, one part of which is an alphabetical list of authors, showing the treatises written by each and the date of publication. Another part is an index of subjects, showing what treatises on each subject can be found in the library. Most libraries have also a complete card index of its volumes and pamphlets kept down to date, which can be consulted at any time.

PART II

HOW TO FIND THE LAW

In General.—Thus far an endeavor has been made to point out the various repositories of the law. The next step will be to show how to find the law by means of the books heretofore described. In the descriptions of the various classes of books heretofore given, much necessarily has been said in regard to the methods of their use. The effort and ability to find the law in any case will be governed very largely by the books available; and, like any work, searches becomes easier the more a person is familiar with the methods used.

Getting Facts.—A client, having brought a case to his lawyer, either desires a legal opinion merely, or expects the lawyer to act for him in prospective or actual litigation. The first step to be taken by the lawyer is to ascertain clearly all of the actual material facts capable of proof. Clients are inclined to give favorable facts only, suppressing others, so that a lawyer may not learn the true state of affairs until he hears the testimony of his opponent's witnesses at the trial. Clients are prone, likewise, to state many irrelevant facts, which must be eliminated.

In some cases, in order to arrive at a complete understanding of a case, it may be necessary for a lawyer to visit certain localities connected with the dispute; and he may also find it advisable to familiarize himself somewhat with such subjects as banking, engineering, economics, etc. The principles governing some of the older branches of the law, such as that of real property, may be better understood by reading some standard English history and becoming acquainted with the customs and influences

at work when the principles of law governing those subjects were first announced by the courts. The reader would then see why the courts applied the rules they did; and he discovers that the principles, which he possibly may have severely criticized, are the very ones which he would have declared if he had been on the bench in those times.

What Law Desired.—After having obtained all the salient facts, the lawyer either may not know the principles of law applicable to them, or, knowing the legal principles, he may wish to fortify his knowledge and be able to point out, in the various repositories of the law, exactly where these principles are to be found. The former is more likely to be the situation of the young lawyer than the latter; yet, even the average practitioner does not know the law beyond certain general principles and such matters as have happened recently to come before him or concerning which he may specialize. Altho a lawyer, without investigation, is reasonably satisfied that he knows the law, his knowledge alone may not be sufficient, as he must be able to point out precedents which will convince a court that certain principles of law apply to the state of facts in his particular case. Even if he might be able to obtain a favorable decision without this effort, there would be more probability of an appeal by his opponent than if the latter also was convinced as to the correctness of the court's decision.

Not only may a lawyer know or want to know the law on a certain point, but he should have the latest decisions on that point so that he can show that there has not been any change in the law. As there are about thirty thousand decisions reported in this country every year, he may want to know how, from this mass of decisions, he is to find the particular decisions he seeks.

After a lawyer has all the facts before him it is advisable, before he opens a law book, to weigh all these facts in the seclusion of his office, placing himself alternately

in the position of each of the contending parties, and then deciding impartially what would be just and right between any individuals so situated, and not merely between these particular individuals, as legal principles are established for all alike without exception. Law is simply a more or less complete system of rules created by society as a substitute for violence; and, theoretically at least, is but an application of common sense, justice, and the customs of the times to business and other relations between human beings.

If, as is usually the case, the subject matter of the litigation is personal, the law of the State where the case is tried is the law which governs, altho it may be entirely contrary to the law in a majority of the States. If, however, the litigation relates to real property in another State, then the law of the State in which the realty is situated will govern[1] regardless of the law of the State in which the parties reside, or in which the case is tried; or if the rights of the parties were fixed by the law of another State, then the law of such State will govern, as would be the case of a promissory note calling for interest at a rate which would be usurious in the State where the suit is brought but not in the State where the note in good faith was given. In such cases the law of the other State, if called to the attention of the Court, will prevail.[2]

Authorities

Definition.—The searcher for the law looks for authorities. This word is used by lawyers in three senses. First, in its broadest sense, it means repositories of the law. Second, in a narrower sense, reported cases are called authorities. In a third sense, an abstract one, authority is equivalent to power or influence. When it is said that the searcher for the law is looking for authorities, the last meaning of the term is intended.

[1]Crolly *v.* Clark (1884), 20 Fla. 849.
[2]Sheldon *v.* Haxtun (1883), 91 N.Y. 124, affirming (1881) 24 Hun, 196.

Classification.—In the first sense above mentioned, authorities are primary and secondary; books containing the law, such as constitutions, statutes, and judicial decisions, falling within the first class; and books explaining or summarizing the law, such as digests, encyclopedias, textbooks, etc., falling within the second class, all of which has heretofore been explained.

In the last sense, that of power or influence, authorities are either imperative or persuasive, being imperative when a court would be bound to apply the rule set forth, and persuasive when a court would not be under a duty to observe the principle laid down, but might be influenced by the rule to such an extent as to approve of and apply it. This last classification may be made clearer by the outline given on the following page.

Written Law.—The constitution and statutes, and the decisions by the highest court in any jurisdiction are of imperative authority within that jurisdiction, but are merely persuasive outside of it, unless the right claimed in the suit would not exist except thru the written law of another jurisdiction. Illustrations of the latter would be a claim for damages arising from death,[1] or rights arising thru adoption.[2] The statute of limitations of the jurisdiction where the suit is brought, is generally the one which governs, and not the statute in force where the right of action may have accrued, unless the right claimed arose under the statute of another State, and that statute likewise provides the period during which the right continues. Thus, where a statute in force in the District of Columbia gave the right to recover usurious interest previously paid, if suit therefor was brought within one year after such payment, it was held in Maryland[3] that the statute which regulated the contract and defined the rights of the parties thereunder, entered

[1]Stewart *v.* Baltimore and Ohio Railroad Company (1897), 168 U.S. 445, 42 L. Ed. 537, 18 S. Ct. 105.

[2]Van Matre *v.* Sankey (1893), 148 Ill. 536, 36 N.E. 628, 39 Am. St. 196.

[3]Eastwood *v.* Kennedy (1876), 44 Md. 563.

into the essence of the contract, forming a constituent element thereof. Hence, the time in which suit must be brought was a condition annexed to the right given; to allow recovery after one year would be substituting a right different from that created by the statute.

Authorities

IMPERATIVE.

WRITTEN LAW OF JURISDICTION.

DECISIONS IN JURISDICTION.

Higher Court.
Same Court.

PERSUASIVE.

DECISIONS.

Coördinate Courts in Jurisdiction.
Lower Courts in Jurisdiction.
Courts in Other Jurisdictions.

DICTA IN ANY JURISDICTION.

TREATISES.

CONSTITUTIONS

If a search for the law leads a lawyer to consult a constitution, he should be sure that the one he consults is the latest one adopted in that jurisdiction; and he should ascertain whether he has all the amendments thereto. A citator would give him the necessary aid on this point.

Statutes

Indexes.—Sometimes a suit is lost because the lawyer on the losing side was not aware of a statute governing the point involved. The writer recalls one case, coming under his observation, which might have terminated differently if the lawyer representing the losing side had been aware of a statute giving a preference to the claims of wage earners. Occasionally an instance of apparent ignorance of statutory law by the court as well as by the lawyers engaged appears in the reports. It is evidently wise for a lawyer first to ascertain whether or not there may be a statute governing the points involved in his case. Such an investigation is sometimes made difficult; first, by a poor arrangement of the statutory matter, and, second, by the lack of a proper index. The writer recalls a search by a lawyer for a statute concerning the "rule against accumulations." He persisted in his search because he knew it was somewhere in the statutes, but was unable to locate it because it had been placed under a title other than the one where he naturally supposed it belonged. His appeal to a passing brother lawyer, who happened to have seen this statute shortly before, led to a clew which enabled the elusive statute to be found. In this case if the lawyer had not positively known of the existence of the statute, he might have been content with a short and unsuccessful search, and proceeded with his case on the supposition that there was no statute on the point; but his opponent may have been wiser. If the subject sought in a statutory index is not found, look under every possible synonym and under every related subject; also consult the table of contents. Professor Cooley relates[1] his efforts to ascertain the exact provisions of the statute of frauds in a certain State. The index did not mention either "Statute of Frauds," "Frauds," or "Suretyship"; but he finally did find what he wanted under the title of "Fraudulent Conveyances."

[1] Brief Making, and the Use of Law Books, 3d ed., 107

Validity.—Because a statute appears to have been enacted by a legislative body and has been incorporated in the volume containing the statutes, it does not follow that there is such a statute, as it may be unconstitutional, that is, violate or be contrary to some principle laid down in the constitution of the jurisdiction, or it may not have been enacted with the formalities required by the constitution, in which case it would not have any legal effect. The principles of the constitution must be known and applied to it to ascertain whether it is lacking in any essential. Sometimes a statute is published altho the editor of the compilation entertains a doubt whether the proper formalities were observed in its enactment. In such a case, the editor, tho publishing the statute, directs attention to its possible defects, leaving the question as to its validity to be passed upon by others.

Amendment and Repeal.—Before relying upon a statute, it is important to ascertain whether it may not have been amended or repealed by the action of some subsequent legislative body. A citator or subsequent session laws would show this; but, owing to delays in publication, session laws frequently do not appear for some time after statutes have become effective. Altho a statute may not be repealed expressly, it may have been repealed by implication;[1] or a State statute may have been superseded by a United States statute, as in the case of the State insolvency laws after the passage of the National Bankruptcy Act.[2]

Provisions of.—Do not rely upon the statement of another as to the provisions of a statute; and, in an important case, if there is any doubt as to the exact wording of a statute as enacted, consult the session laws for the term of the legislature which enacted it. Do not forget that compilations of statutes by private enterprise are not authority.

[1]14 A. L. & P. 20, § 22.
[2]Harbaugh *v.* Costello (1900), 184 Ill. 110, 56 N.E. 363, 75 Am. St. 147; affirming Costello *v.* Harbaugh (1898), 83 Ill. App. 29.

Construction.—If there is a valid statute applying to the case in hand, the next step is to ascertain whether it has been construed by the courts. An annotated edition of the statutes or a citator would give this information. Sometimes hostile construction amends or even abrogates the legislative intent. A good illustration of this was the construction placed upon the old English "statute of uses," which was held by the courts not to apply in so many situations that it had little practical effect.[1]

If a particular statute has not been construed by the courts, and there is any doubt as to its meaning, there are certain rules of construction which can be applied. These are clearly set forth in the text on Statutory Construction in American Law and Procedure.[2]

Scope.—The seeker after the law on a point apparently covered by a statute, must note particularly whether the statute applies to his state of facts. A statute is generally prospective[3] and not retrospective, that is, it relates to the future, and does not affect acts performed or rights acquired before its passage. The writer recalls a case concerning a dower right, where the inchoate right had attached to the land previous to the enactment of a statute making material changes in the common law right of dower. The statute had been in force a great many years, and many lawyers might carelessly have supposed that it governed in this particular case; but the lawyer in charge of it took the precaution to notice when the statute went into effect, which resulted in his obtaining more property for his client, and incidentally a larger fee for himself.

Unwritten Law

In General.—If the case in hand is not affected by any constitutional point and does not come within any

[1]See 5 A. L. & P. 55, § 38, and 6 A. L. & P. 369, §§ 10, 11.
[2]14 A. L. & P. 1-48. See, also, "Construction and Interpretation of Laws," 2d edition (1911), by Henry Campbell Black.
[3]See 14 A. L. & P. 16, § 19.

statutory provisions, which is the most common situation, then recourse must be had to the unwritten law. In resorting to the unwritten law a lawyer is governed by the knowledge that circumstances which have caused litigation in the past will undoubtedly arise again, so that disputes similar to those in the past will arise in the future. Conversely, there is a great probability that circumstances, similar to those which have given rise to the present dispute, have arisen before and have caused disputes with resulting litigation, so that, in the great mass of decisions heretofore rendered, there is probably one or more which will indicate what principle of law should and would be applied to the present case. Consequently the next move to be made after ascertaining the facts, is to ascertain whether or not there are such decisions; and, if so, where and what they are.

If a Federal question be concerned, a decision of the United States Supreme Court is to be sought; otherwise, a decision by the highest State court. The latter situation is the most common, especially for the young lawyer.

If a lawyer knows the principle of law applicable to his state of facts he might be inclined to resort first to a textbook or encyclopedia to find a case supporting the principle which he thinks is applicable; but if he is not familiar with the legal principle to be applied, he might go to a digest to find the principle as well as the cases supporting it. Textbooks and encyclopedias are better adapted to the study of principles than digests are; but digests are better indexes to precedents than textbooks or encyclopedias are. He might, however, go to a digest in the first place altho he knows the law; or he might study out the law thru a textbook or encyclopedia. What he wants chiefly at first is to find a case which is an actual repository of the law and applicable to his state of facts. After discovering one case he can find other cases if any; and thru them he can establish the legal principle applicable to his case.

In searching for a principle of law, either in a textbook, encyclopedia, or digest, all the subjects under which it might be applied should be consulted. Thus, as much of the law of partnership is merely the application of the rules of agency, a principle relating to the law of agency might be found under the subject of partnership; and, in seeking to ascertain what would be reasonable notice from a landlord to his tenant, it might be that something relevant would appear under notice from a tenant to his landlord. If a word sought is not found, a synonym of that word should be tried.

Textbooks.—A statement in a textbook or encyclopedia is not the law,[1] altho such a book is commonly called a "law book," and may have been written by a judge. Apparently some lawyers and some courts seem to think that textbooks contain the law, as the writer recalls a statement by a lawyer that he had won a recent case entirely by reference to an encyclopedia. Probably the erroneous belief is a relic of the days when libraries were limited, and judges as well as lawyers were dependent upon textbooks as repositories of the law. The true repositories of the law consist of the written law and the decisions of the courts of last resort; tho it might be added that when an opinion in a decided case states a legal principle and quotes some textbook of established reputation in support of that principle, all that the author has said in immediate connection with the principle, altho not within the doctrine of the case, may generally be said to have persuasive authority in that court and in inferior courts in the absence of decisions.

In using a textbook, the latest edition thereof should be used if possible, as that would be corrected and revised and cite more and later cases. When a proposition of law is found which seems to be applicable to the case in hand, reference should be made to the cases cited in the notes in support of it. Observe in the note citing cases

[1]See Brumbaugh, "Legal Reasoning and Briefing," 623.

in support of a proposition mentioned in the text whether any of the cases follow the word *contra*, which means that a contrary rule has been laid down in them. A case from the searcher's own State might be among the *contra* decisions. The bare statements in a textbook must not be relied upon implicitly. Altho supported by the cases cited, they may not always give the weight of authority, or a principle may be stated too broadly. Cases decided since the text was written may have modified or changed the principle announced. Where a textbook illustrates a principle of law by applying it to one state of facts, it manifestly might be applied to a similar state of facts; thus, a general principle applicable to the sale of one kind of machinery would apply as well to another kind, or might even be applied to goods generally, altho it would not apply to intangible property, such as choses in action or negotiable instruments.

In consulting an index, bear in mind that one which gives page numbers, cannot be completed until the text appears in "page proofs," and the author by that time feels hurried and tired; hence, errors in page numbers in the index are quite likely to be made. In such a case, the proper place can sometimes be readily found by a transposition of or an addition to or subtraction from the incorrect number. Thus, if the index states that a certain point will be found on page 143, but it cannot be found there, it might possibly be found on page 134, 243, or even on page 43, 14, or 1143. Comparison with page numbers under other divisions of the topic in the index may give a clew.

In using any index, if the term sought is not found, look for a synonym. The mind of the person making the index and the mind of the person using it, may not run in the same channel. A different term, out of several applying to the same topic, may have come into the mind of each, or one of the parties may not have selected the most appropriate one, or a cross reference term may have been

overlooked. Thus, "issue," "descendants," and "progeny" may be said to be synonyms; and so would "infant" and "minor," and there is some similarity between "voidable" and "incapacity." Matter might be indexed under one of these terms only.

Even tho a searcher might find the exact word he seeks, it may be that he has not looked for the proper word. Thus, he may have looked for "children" when "heirs" would have been the proper term.

Sometimes the searcher uses too narrow a term when he should have looked for a term which includes it and others, and the rule he seeks would apply to the broader term. Thus, if he was looking up the law governing trespasses by cattle, he might look for and find "cattle" without finding anything referring to trespasses, whereas he might have found what he desired under "animals."

Occasionally the particular topic sought, especially if a very broad one, can be located more readily from the table of contents than from the index, as, in the former, the relation which one part of the volume bears to the others can be seen.

Digests.—In consulting a digest, a lawyer would be governed largely by the books accessible to him. If he had only the official reports of his own State at hand, he naturally would first resort to a digest of his own jurisdiction; if he had the reports of one of the units of the National Reporter System, he might turn to a digest of that unit; if he had the Lawyers Reports Annotated, he might resort to an L.R.A. digest; if his library was extensive and the matter important, he might use the American Digest System; or he might consult one or more of these and other digests.

In using a digest, the first step is to think of the words descriptive of the essential and leading features of the facts, and then to look for these words until he finds something which seems to be applicable to his case, and then to consult the analysis of the topic or topics to

which his investigation leads. If the American Digest System is used, the Descriptive Word Index will be of great assistance.

When seeking for a leading word descriptive of the facts, the searcher might think of the parties concerned, the subject matter, the cause of action or defense, the object of the action, or the point of controversy other than the cause of action. The parties concerned, in the sense here used, is not restricted to those primarily interested in the dispute, but is a broad term referring to a class, occupation, or relation, such as "children," "conductors," "cosureties," etc. The subject matter is the concrete thing or place which has caused the dispute, and without which the dispute would not have arisen. Illustrations of such words would be "automobiles," "sidewalks," "railway stations," etc. The cause of action means some right invaded or some duty not performed. Thus "eight-hour law" and "delay" would be words descriptive of the cause of action. Defense means something constituting justification for the seeming wrong committed, as "act of God," "self-defense," etc. The object of the action means the particular relief sought, as "injunction," "possession," etc. The point of controversy means one other than the cause of action or ground of defense, being chiefly those relating to procedure, such as "admissibility of evidence," etc. Sometimes a broad term will be more effective than a narrow one in locating the authorities; thus, "machinery" might be better than "grindstone." In other instances, the narrow term might produce better results. Thus, the specific word "photograph" might be better than the broader word "picture." If the term is a new one, such as "wireless" or "radio," look for a term which is older and broad enough to include it, as "telegraph" or "telephone."

A list of all these descriptive words coming to mind under one or more of the heads just mentioned, should be noted down, one or more of which the searcher should

be able to find in a digest. Having found one of these words in the digest, it will be either one of the regular topic titles therein, or it will be a reference to the proper topic title. After he locates the proper topic in the digest, he may find a brief statement of facts similar to his own, and the law applicable thereto, and cite one or more cases in support thereof.

Confusing Citations.—In citations of cases the student and young lawyer is warned against confusion thru similarity in the names of reports, and especially from abbreviations which are identical. He should familiarize himself with the jurisdictions covered by certain reporters, and the abbreviations used to indicate their reports.[1] Some of the most confusing abbreviations are the following: "Dud." for "Dudley," which may indicate either an early Georgia report or an early South Carolina report, tho it is customary to distinguish the latter by the abbreviation "Dud. (S.C.)." "Eng.," for "English" does not necessarily indicate reports from England, but may be intended for volumes 6 to 13 of the Arkansas reports reported by Mr. English. "Har.," for "Harrington" describes five volumes of early Delaware reports, and also a Michigan Chancery report; "Harr.," may be for "Harris," as volumes 13 to 24 of the Pennsylvania reports are sometimes called, or for "Harrison," as volumes 16 to 19 of the New Jersey law reports are sometimes designated, or for volumes 15 to 17 and 23 to 29 of the Indiana reports, tho the latter are usually distinguished by the abbreviation "Harr. (Ind.)." "Hay." means "Haywood," indicating volumes 2 and 3 of the North Carolina reports, and also volumes 4 to 6 of the Tennessee reports. "How.," for "Howard," indicates volumes 42 to 65 of the United States reports; also volumes 2 to 8 of the Mississippi reports, and a series of New York practice reports; and for "Howell," as volumes 22 to 26 of the Nevada reports are sometimes cited. "Hugh.," for "Hughes," indicates

[1]See 14 A. L. & P. 418-447.

the first volume of the Kentucky reports, and also some of the early United States Circuit Court reports. "Mart.," for "Martin," indicates some of the early Louisiana reports, also volume 1 of the North Carolina reports. "Met.," for "Metcalf," indicates volumes 42 to 54 of the Massachusetts reports; and for "Metcalfe," indicates volumes 58 to 61 of the Kentucky reports. "Pick.," stands for "Pickering," as volumes 18 to 41 of the Massachusetts reports are frequently cited, and for "Pickle," as volumes 85 to 108 of the Tennessee reports are sometimes designated. "Rob." is an abbreviation for "Robinson," indicating twelve volumes of early Louisiana reports, and also volumes 40 and 41 of the Virginia reports; it is likewise an abbreviation for "Robertson," indicating volumes 24 to 30 of the New York Superior Court reports. "Tayl.," for "Taylor," refers to volume 1 of the North Carolina reports; also to some of the Upper Canada [Ontario] reports. "Walk.," for "Walker," indicates one of the Michigan chancery reports; also the first volume of the Mississippi reports, and occasionally some of the Alabama, Pennsylvania, and Texas reports. "Wash.," for "Washington," does not always indicate the reports from the State of Washington, but it may mean volumes 1 and 2 of the Virginia reports, or four early volumes of the United States Circuit Court reports.

The student is cautioned further that "Cranch" not only indicates volumes 5 to 13 of the United States reports, but also the first five volumes of the District of Columbia reports, tho the latter are usually indicated by "Cranch (D.C.)." "Green" indicates volumes 13 to 15 of the New Jersey law reports, and volumes 2 to 7 and 16 to 27 of the New Jersey chancery reports; and "Greene" indicates four early volumes of the Iowa reports; while the abbreviation "Green." stands for "Greenleaf," indicating the first nine volumes of the Maine reports. "Hill" may indicate either some of the New York common law reports, or some of the South Carolina law or

chancery reports. "Smith" indicates an early New Hampshire report, and sometimes reports from various other States.

Sometimes combinations in abbreviations are so similar that they might mislead the unsophisticated. Thus "Har. & McH.," "Har. & J.," and "Har. & G." indicate three separate series of the early Maryland reports. "Gill & J." is not the same series of Maryland reports as "Gill" standing alone. "B. & Ad." and "B. & Ald." indicate different sets of English reports.

Sometimes the name of a reporter appears both in a series of law (common law) reports and in a series of chancery (or equity) reports. In such a case "L." is added to indicate "law," and "Ch." or "Chan." for "chancery," and "Eq." for "equity." Sometimes, in such a case, the reporter's name without any addition indicates the law series. Thus in New York we have "Johns." and "Johns. Ch." indicating a law and a chancery series by Johnson; and in New Jersey, "Green" and "Green Ch." or "Green Eq."

Sometimes, where two reporters had the same surname, their reports are distinguished by the use of their initials, or first names. A good illustration of this is "T. B. Mon." and "B. Mon." meaning "T. B. Monroe" (volumes 17 to 23 of the Kentucky reports) and "Ben. Monroe" (volumes 40 to 57 of the Kentucky reports), respectively.

The abbreviations "Cas." for "cases," "Dec." for "decisions," "N. C." for "new cases," "N. S." for "new series," "O. S." for "old series," "Pr." for "practice," etc., following the reporter's name, indicate a separate series. Thus, in New York, we have "Abb. Dec.," "Abb. N. C.," "Abb. Pr.," "Abb. Pr. N. S.," each indicating a distinct series of reports by Abbott.

The abbreviation "St.," meaning "state," when following the name of a State, usually indicates a series entirely different from that indicated by the name or abbreviation of the State alone. Thus the "Ohio Reports" consist of

twenty volumes of early reports (1821 to 1851) in that State, the present official reports (from 1851) being known as the "Ohio State Reports." The abbreviation "Pa. St.," however, means and same as "Pa." alone, the former designation sometimes being used to distinguish the supreme court reports of the State of Pennsylvania from those of lower courts of record, such as the reports of the Pennsylvania county courts, the Pennsylvania district courts, and the Pennsylvania superior courts, sometimes designated as the "Pennsylvania Side Reports." The abbreviation "Super." does not indicate a supreme court but a superior court.

The States of North Dakota and South Dakota have their own series of reports; but the reports from the territory out of which the two States were originally formed are known as the Dakota reports (six volumes, 1867 to 1889). Similarly, the Indian Territory reports (seven volumes, 1896 to 1908) are not the same as the Oklahoma reports; nor the Washington Territory reports (three volumes. 1880 to 1888) the same as the Washington reports.

Sometimes a well-known case, cited in a decision, is not designated in the usual manner. Thus the court might speak of the doctrine of the "Debs Case," or the "Legal Tender Cases." In the first instance it might be supposed that Debs was a party to some case,[1] which might be located by means of the tables of cases in the Decennial digests. The tables of cases should also show such common designations as "Legal Tender Cases."

Sometimes there are two suits between the same parties, based on different grounds; or the same suit may be appealed and remanded several times, so that the same title may appear several times in the same series or even in the same volume.[2] In such instances the searcher should make sure that the case he finds is the one he sought.

[1] *In re* Debs (1895), 158 U.S. 564, 39 L. Ed. 1092, 15 S. Ct. 900.
[2] See Illinois Central R. R. Co. *v.* Grabill (1869), 50 Ill. 241, and Illinois Central R. R. Co. *v.* Grabill (1869), 50 Ill. 248.

Cases.—The cases obtained thru either a textbook or a digest should be read in the reports to see if they have any bearing on the case in hand. If they do not, further search becomes necessary. If a case sought is not found in the volume indicated, it must not be forgotten that in the digests of the American Digest System are complete lists of the American cases from the earliest times down to the present, which also indicate under what topics and in what sections of those digests they have been cited.

After a case has been found which seems to be pertinent, earlier cases may be discovered thru citations in the case read; and later cases can be found by means of a citator. A textbook may not cite all the cases in support of a proposition; nor does it necessarily cite the best cases; and it is evident that it cannot cite any cases decided after it was written. The new decisions each year cover about 25 per cent of the points formerly decided. If an American digest has been used, both the earlier and the later cases can be located thru the key number. An examination of all the cases, old and new, may result in finding one in which the facts resemble those of the case in hand; or a better reasoned case may be found; or the principle announced in the older cases may be found, in a later case, to have more limitations than were at first apparent.

In his examination of cases the searcher should not rely[1] on a syllabus or headnote, especially of an old case, as it may be erroneous. A headnote may be correct in one report but not in another;[2] or, tho correct, it may be so broadly[3] or otherwise worded as to convey an erroneous impression.

In addition to the cases which seem to support his side of the case, a lawyer should examine all those seeming to hold a contrary view. He must be as familiar with the weapons which his adversary may wield as he is with his

[1]Denham *v.* Holeman (1858), 26 Ga. 182, 71 Am. Dec. 198.
[2]See Stewart *v.* Cary Lumber Co. (1907), 146 N.Car. 47, as compared with 59 S.E. 545.
[3]See State, *ex rel.* Beach *v.* Citizens' Benefit Ass'n. of St. Louis (1878), 6 Mo. App. 163.

own. A case apparently contrary may be merely an exception to some general principle, and really support the general principle. Some lawyers, unfortunately, are tricky; and an opponent may state a decision in such a manner as to create an erroneous impression that it is different from what it really is. In any event, it is his duty to present his side of the controversy as favorably to his client as he can.

Cases

Authority.—In seeking cases the lawyer has two purposes which he wants combined. First, he wants cases supporting a certain principle of law; secondly, he wants cases applied to facts similar to his own case. For one decision to be authority for a subsequent one, the facts must be alike, or, if the facts be different, the principle must be broad enough to apply to variant facts. Thus, a decision that an infant's contract can be avoided at once, rendered in connection with a sale of goods, would not be authority where an infant's contract related to land; but a decision that an infant's contract for the sale of land is voidable, would be authority where an infant had made a contract to sell goods.

A lawyer desires a precedent; which may be defined as an adjudged case or decision of a court of justice considered as furnishing a rule of authority for the determination of the identical or a similar case afterwards arising or of a similar question of law.

In looking for cases supporting a certain principle, a lawyer seeks cases of imperative authority rather than those of persuasive authority only, unless he cannot find any of the former; in which event he may be compelled to rely entirely on persuasive authority; or if he has found out one case of imperative authority, he may want persuasive authority to strengthen that case.

Sometimes a doubt arises as to whether or not a principle of law mentioned in an opinion is of imperative

authority. Where a court is asked to pass upon several suggested errors of the court below, but finds that there are no errors at all and affirms the judgment of the court below, the decision of the court is of imperative authority as to each point. Because a decision is based on two or more points, when it might have been based on one alone, does not prevent each principle from becoming an imperative authority;[1] and because a court ignores one principle presented to it is not any authority that this principle may not be correct.

A decision must not be construed too broadly, however, as it may state a general principle only; there may be some qualifications which would have been made if the case had required it. Thus, a decision that an infant's contract is voidable would not necessarily mean that every agreement by an infant is voidable and that he would not be liable for necessaries. That particular case might not have related to any of the exceptions to the general rule, and it was not to be expected that the court would refer to them. A court, in its decisions, is not writing a textbook.

Questions not raised by the parties and not considered by the judges are not concluded by the decision, so that the judgment is not authority thereon, even tho, if a certain question had been raised and deliberated upon, a different judgment might have been given. Thus, if one of the parties to a suit appears from the statement of facts to have been an infant, but the defense of infancy is not made by him, a decision against him would not be any authority that an infant is liable on his contracts. A decision may be merely whether certain facts are held to have been proved. In some cases certain decisions have no more than persuasive authority in the jurisdiction in which they were rendered, the decision in each case being *res judicata* only, or binding only on the immediate parties before the court in that particular case;

[1]Hawes *v.* Contra Costa Water Co. (1878), 5 Sawy. 287, 11 Fed. Cas. 862 (No. 6,235).

such are the decisions of the appellate courts of the State of Illinois.

Dicta.—It is important that those portions of a case which are of persuasive authority only be distinguished from those which are imperative. A case becomes a precedent only to the extent of its imperative authority; and its imperative authority is limited by the facts in that particular case.

A statement made by a judge, altho a member of the highest court, is not of any authority unless made in his court when his duties require him to make it; nor is it sufficient to constitute a precedent that a statement in regard to the law appears in the written opinion in a case decided by the court. The opinion may be a statement merely of the reasons which influenced the particular judge who wrote it to reach the conclusion he did; but the other members of the court, while unanimous as far as the conclusion reached is concerned, may not agree with the reasoning, analogies, illustrations, and hypothetical cases presented in the opinion. If it were otherwise, the writer of an opinion would be under the necessity of restricting, limiting, and qualifying every statement made—a condition which would be impossible, and would greatly hamper and delay him even if practicable. "General expressions, in every opinion, are to be taken in connection with the case in which these expressions are used. . . . The question actually before the court is investigated with care, and considered in its full extent. Other principles, which may serve to illustrate it, are considered in relation to the case decided, but their possible bearing on all other cases is seldom completely investigated."[1]

A case decides certain points only; hence, just what a case decides must be ascertained. To determine just what a case decides, careful attention must be directed to the legal reason for a decision (*ratio decidendi*), the

[1]Cohens *v.* Virginia (1821), 19 U.S. (6 Wheat.) 264, 399, 5 L. Ed. 257, 290.

underlying principle or doctrine of the case, without which the judgment in the case could not have been given. This doctrine or *ratio decidendi* is of imperative authority, having the force of law; and the case is evidence of its existence. It may or may not coincide with the point decided; but it usually is broader, the point decided merely showing the application of the *ratio decidendi* to specific facts.

The *ratio decidendi* is to be ascertained from the question taken to the court, from the disposition which was made of this question, and from the grounds expressed by the court for its decree; and the authority of a decision as a precedent is limited to those propositions of law raised by the record, considered by the court, and necessary to the determination of the case. Thus, a suit is brought to recover two colts from an executrix, the plaintiff claiming the colts as a gift from the testator made a year prior to the latter's death, but the testator retained possession of the colts.[1] In their opinions the judges might say that under certain circumstances named by them the title to the colts might have passed to the donee without a transfer of possession, but the case does not decide these points as, in this case, these supposed situations had not occurred. All the case did decide was that a mere oral gift without delivery of the article to the donee did not transfer title.

On the other hand, if the case could not have been decided without the recognition and application of a given rule or principle of law, the decision is an authority for that rule or principle, which, altho not explicitly set forth, must be assumed. Suppose a father is sued for damages for the loss of an eye caused by an airgun fired by his son.[2] The court decides that the father is not liable. The *ratio decidendi* really consists of two points; first, that one person cannot be made liable for the torts

[1]See Irons *v.* Smallpiece (1819), 2 B. & Ald. 551, 106 Eng. Reprint, 467, 21 Rev. Rep. 395.

[2]See Ritter *v.* Thibodeaux (Tex. 1897), 41 S.W. 492.

of another committed without participation therein by the former in some way, as by consent or thru employment; second, that the relation of parent and child does not of itself show such consent or employment. This well-known principle of law is laid down by implication.

Every assertion of a principle of law outside of the *ratio decidendi*, even tho coming from a learned man and made after mature consideration, is a dictum. A dictum (Latin, meaning "something said," plural, dicta) has been defined as an expression of opinion in regard to some point or rule of law made by a judge in the course of a judicial opinion, but not necessary to the determination of the case before the court.[1] Thus, in an action against a parent, a statement that "infants are liable for torts and wrongs committed by them, the same as adults"[2] is a dictum, as the action is not against an infant; but if a court decides that one point in a case is right and another is wrong, and reverses the case for the latter reason, the correct principle is not reduced to a dictum. The court has decided two points.

Dicta have been classified into *obiter dicta*, *dicta propria* and *gratis dicta*. An *obiter dictum* is a remark made or an opinion expressed by a judge incidentally or by way of illustration, argument, analogy, or suggestion. Thus, in a case involving the contracts of a lunatic, the judge delivering the opinion might refer to its resemblance to an infant's voidable contract, but what he might say in regard to the law governing the contracts of an infant would be *obiter dictum*, and not authority on the point. Its only value would be its indication how the question might be decided if it came before the court in an actual case. *Dicta propria* are personal, individual, or private expressions not essential to the disposition of a case and not necessarily concurred in by the other judges. They consist of the reasoning of the individual. *Gratis dicta* are those stating a legal opinion more broad than is

[1]Black's Law Dict., 166.
[2]Wilson *v.* Garrard (1871), 59 Ill. 51.

necessary for the case before the court, or adding superfluous expressions of opinion on points or questions not of record. *Gratis dicta* are sometimes preceded by the word *semble* (Latin, meaning "it seems").

Dicta go beyond the exact needs of the very problem presented by the court, and are of persuasive authority only. Almost every opinion contains expressions in regard to some point or rule of law not necessary to the determination of the case before the court.

The reader, however, must not infer that a dictum is entirely without authority. Altho not a part of the decision and not of imperative authority, it is entitled to some force if there has not been any decision on the point and it has been pronounced by a learned judge and frequently referred to with approval. Many decisions are based on dicta. They resemble statements in textbooks.

Rehearing.—Before any decision is relied upon as an authority, an investigation should be made to ascertain whether there may not have been a rehearing of the case, as, upon further argument, the court might have changed its former opinion.[1] The statement "rehearing denied," following a decision, clearly indicates that the case is closed so far as that court is concerned.

Appeals.—It should be ascertained also whether the decision of the court may not have been appealed to a higher court and reversed, especially if the decision was not rendered by the highest court in the jurisdiction. Many States have but one court of appeal, and hence but one set of reports; and in such States there will not be much trouble on this point. Other States, however, have an intermediate court of appeal; and sometimes, as in California and Illinois, there are several of these courts. It must be borne in mind that, if a Federal question is involved, such as the construction of the United States

[1]See Omaha Bridge & Terminal Railway Co. *v.* Whitney (1904), 68 Nebr. 399, 99 N.W. 525 (1903), 68 Nebr. 389, 94 N.W. 513.

Constitution or of United States statutes or the effect of treaties, an appeal can be taken from the highest court in any State to the United States Supreme Court. Tables in the National Reporter System show what cases have been appealed, and the fact of an appeal, unless very recent, can be learned thru a citator also.

If an effort has been made to appeal a case, and the reports of the upper court contain the statement, "appeal denied," the finality of the decision of the lower court is indicated. Many appealed cases do not involve any unsettled principle, and are appealed merely for delay. These are not reported.

One of the difficulties encountered in looking up appeals is that, in some States, the position of the names of the parties may be changed in the title of the case as it appears in the upper court. Thus, Smith starts a suit against Brown, and the title of the case, prior to appeal, is "Smith v. Brown." Brown, having lost in the lower court, prosecutes an appeal, thus becoming the plaintiff in the court to which the appeal is taken, and the title of the case in the latter court becomes "Brown v. Smith." Further confusion is likely to be created in the mind of the student by the fact that, in the opinion of the upper court, the parties are mentioned as "plaintiff" and "defendant" without giving their names, and the student is inclined to have in mind the position occupied by them in the lower court.

Another difficulty likely to be met is that quite unsatisfactory abbreviations of the names of corporate parties are given in the titles of some of the cases in the older reports. Thus, in the title of a case in the reports of the upper court the "Baltimore and Ohio R. R. Company" might appear as "Railroad Company" only; or the "Burnham Fire Insurance Company" might appear in the title merely as "Insurance Co."

Still another difficulty arises where there are several persons interested on one side of a case in the lower

court, and one of them, whose name does not appear in the title in the lower court, is the only one to appeal, in which event the title of the case might not be the same in the court to which the appeal was taken. Thus, if Smith and Brown sue Jones, the original title might be "Smith *et al. v.* Jones." Smith and Brown lose their case, but, for some reason, Brown is the only one caring to appeal. In that event the title in the upper court might be "Brown *v.* Jones." Even where all the parties interested on one side appeal, different sets of reports occasionally do not use the name of the same party in designating the case, if the interests of the parties are identical.

Overruled.—If a decision is not a recent one, and especially if it seems to be very poor, it should not be relied upon without ascertaining whether it may not have been expressly or impliedly overruled by some subsequent one; that is, whether the court may not have laid down a contrary principle in a later case. If not overruled entirely, subsequent decisions may have modified or explained general expressions used in the former opinion.

Subsequent Written Law.—As the written law is of higher rank than the unwritten law, a decision by the highest court in any jurisdiction ceases to be the law if a contrary rule is laid down by the legislative body of that jurisdiction; and a statute would cease to be the law if a new constitution in conflict with it should be adopted. Early cases in Illinois[1] clearly hold that the rolling stock of a railroad is real property; but in 1870 a new constitution was adopted in that State which declared that rolling stock should be considered personal property.[2] Thus, the early cases lost their imperative authority on this point as soon as the new constitution went into effect, as the constitution was of higher rank.

[1]See Titus *v.* Ginheimer (1861), 27 Ill. 462.
[2]Ill. Const., Art. XI, § 10.

Selection and Value.—Having found several cases, either of imperative or of persuasive authority, all seemingly bearing on the point of controversy and apparently similar, the next point is to determine which of these cases are the ones of greatest authority or value.

While a decision is of imperative authority in the court pronouncing it and in all inferior courts in the same jurisdiction, a decision is persuasive authority only in a court of higher or of equal rank in the same jurisdiction; hence, other things being equal, in making a selection from a number of decisions rendered in the same jurisdiction by various courts, those rendered by the highest court in that jurisdiction should be chosen.

In the United States and in most States the highest court therein is known as the "supreme court," or the word "supreme" occurs in its title in connection with other words; and "appellate courts" or "courts of appeal" are of inferior rank, so that a decision by the "supreme court" therein is of imperative authority. In a few jurisdictions, however, as in New York, New Jersey, and the District of Columbia, the "court of appeals" is higher than the supreme court; so that lawyers, not familiar with the fact, may be misled into thinking that a decision by the highest court in these exceptional jurisdictions, has been overruled by an inferior court. The author was once asked by one of his students, while a New York case was under discussion in class, if a statement in the case that it had been appealed from the supreme court was not a typographical error.

Another quite common erroneous impression which law students and young lawyers frequently have is that a decision by the United States Supreme Court is always of greater authority than a decision by any State Court. While it is true that a decision by the United States Supreme Court where a Federal question is concerned, such as those in regard to the United States Constitution, treaties, and United States statutes, is of imperative

authority and binding on all other courts in the country,[1] it is otherwise where the point is one concerning matters which a State has power to regulate, such as the construction of the State constitution, its statutes, and the laws concerning property within the State. On such points a decision by the highest court in a particular State is of imperative authority, and will be followed by the United States Supreme Court.[2] It sometimes happens, however, that a State court may not have been called upon to pass on some point concerning which it would have a right to pass and the point arises for the first time in a United States court. In that event the United States court would pass upon it,[3] and while such decision would be binding on the parties to that particular suit, it would be merely persuasive authority in State courts so far as future litigation between other parties are concerned.

If the decisions in a jurisdiction are by inferior tribunals only, the decisions of the highest of them are to be preferred. A decision by a commission or temporary court is of less weight than one by a permanent court, unless the commission was composed of lawyers of unusual ability.

A lawyer having found several cases of equal rank, all upholding the legal principle which he wishes to have applied in his case, the next question to be determined is which of these are the best. While he may have many cases which are authority for a certain proposition of law, very few of them may apply to the particular facts of his case; and the application of a legal principle to his state of facts is as important to him as the principle itself. If a reported case is not clear as to the facts, it must be remembered that a full record of every case is on file with the clerk of the court which rendered the decision; and, if the matter is important enough, an examination of the original files may be advisable. In every law library of

[1]Black, Law of Precedents, 336.

[2]Townsend *v.* Todd (1875), 91 U.S. 452, 23 L. Ed. 413.

[3]Burgess *v.* Seligman (1882), 107 U.S. 20, 27 L. Ed. 359, 2 S. Ct. 10.

any size there are usually copies of many of the briefs submitted to courts of appeal in that jurisdiction.

Of course the very best case for a lawyer is one in which the facts upon which the decision was based were essentially the same and the point of dispute the same as in his own case. Such a case is said to be "on all fours." If a lawyer finds two or more favorable cases on all fours decided by the highest court in his own State, and the doctrine therein stated has not been overruled or modified by any later decisions, he might be justified in saying that he had found the law, as the unwritten or common law is the law of precedent and applies the doctrine of *stare decisis;* but even tho a certain doctrine seems firmly established in his own State, a wise lawyer would examine the cases in other jurisdictions, as some of them may supply him with additional reasons for the legal principle declared. Whether a single decision will be sufficient to bring the principles laid down therein within the doctrine of *stare decisis* is questionable. In such a case, if the reasoning of the court was poor, or if the decision was contrary to the weight of authority since established, or if the conditions under which the former decision was rendered have since changed, there may be a reasonable doubt whether the law has been found, as the court might be persuaded, by sufficient argument, to overrule its former decision.

After a lawyer has found a number of decisions of equal rank applicable to the facts of his particular case, the next question to be decided is which of them are of the most value. Much will depend on the standing and ability of the judges composing the courts which rendered the decisions, and on other circumstances. A well-reasoned opinion is better than one merely stating principles; and an opinion supported by well-considered and applicable authorities is better than one omitting such references. An incomplete report, as is the case in some of the earlier decisions, lessens the weight of a

decision. A decision contrary to the preponderance of authority may be influential if rendered with reference to the opposing authorities; but it is otherwise if there is nothing to indicate that the court was aware of them. An opinion loses its force if based on an illy considered or overruled decision.

A court may deal with a certain point in question slightingly, on the ground that the decision can easily be based on another point, in which case the force of the decision as to the first point is materially weakened.

A case loses its value as a precedent if it is merely an amicable suit, decided without actual contention and deliberation; or is a fictitious suit not properly presented, especially if it is an *ex parte* proceeding; that is, where one side does not offer any opposition. However, if a case involves a real controversy and real conflicting interests, tho it is an amicable action and made up for the purpose of obtaining the opinion of the court, as in a test case, the decision therein has force as a precedent.

In some cases the dispute is not as to the existence of a principle, but as to which of two or more principles applies to a given case. Such a case is not so valuable except as reiterating the principles.

Something concerning the value of a case may be learned from its subsequent citation, either thru a citator or by means of textbooks. The tables of cases in textbooks should indicate the extent to which a case has been cited therein. Too much importance, however, must not be placed on subsequent citation, as sometimes an author or judge may cite a case merely because other authors or judges have done so. Notice, too, when a case is cited, whether there is mere citation, or whether the case has been commented upon as well. Bear in mind, too, that merely citing a case with approval is not necessarily an approval of all of it; citation may have been made with reference to some particular part of the cited case. On the other hand, an express disapproval by a court of the

doctrine of a case where the same doctrine is not involved in the case in which the disapproval is expressed, is a mere dictum.

Other things being equal, a well-annotated case appearing in a series of selected cases may be preferable to other cases.

An opinion concurred in by the whole bench is better than one having one or more dissenting opinions. A well-reasoned dissenting opinion by judges of learning and ability will weaken the value of the opinion held by a majority of the judges; and several well-written dissenting opinions, by a bare minority of the judges, may almost destroy the authority of a case. A party prosecuting an appeal has the burden of convincing the upper court that the judgment of the lower court is erroneous; unless, therefore, a majority of the judges agree with him, the judgment of the inferior court will stand. Hence, where there is an equal division of the judges on appeal, the decision of the lower court is sustained. Such a decision does not have much weight.

The influence of a decision is weakened if the court was prejudiced or may have been influenced by politics.

Occasionally changing conditions indicate that a decision is obsolete. A decision based on customs observed when a community was agricultural may not have much weight if the region has since become a mining or a manufacturing district or urban and former customs have been forgotten.

Where there are several equally good decisions by the same court, and selection therefrom is to be based merely on the ages of the decisions, there are advantages and disadvantages in both old and new cases. The latest case is the most valuable so far as indicating what the existing law is, but it may be content merely to restate an established legal principle, so that an earlier case may be better because giving the arguments and reasoning by which the decision was reached, and applying them to the

facts in a more elementary way and in such a manner as better to impress the principle upon the mind. This is especially true if the early case is one known as a "leading case," that is, one which first definitely settled an important rule or principle of law, and which has since been often and consistently followed.[1] The authority of such cases is of the highest.[2]

If the searcher after the law cannot find any decisions in his own State on the point in which he is interested, a situation more likely to arise in the newer States than in the older ones, he necessarily must resort to the decisions in other jurisdictions as persuasive authority. The English common law is the basis, not only of the law in this country, but of that in most of the British colonies as well. The exceptions are the State of Louisiana and the Province of Quebec, where the Civil (Roman) law applies, altho in Louisiana the common law is applied in criminal cases. The Civil law has also made an impression on some of the States which were formed out of territory formerly French or Spanish. Thus the law governing community property of husband and wife in force in the southwestern and Pacific States was borrowed from the Civil law.

If there have been decisions on a point in several jurisdictions, and all have recognized the same principle, it is said to be "well settled."

If the decisions in other jurisdictions are not harmonious, that is, where one princple of law has been laid down by the courts of one jurisdiction and the opposite has been held by the courts of another jurisdiction, there is said to be a "conflict of authority." There really is not any conflict, as the highest court in each State is supreme in that State unless some Federal question is involved. The "conflict" is restricted to the persuasive

[1]Black's Law Dict., 95.

[2]Interested students who may wish still further to pursue the subject of the relative value of cases, are referred to the "Handbook of the Law of Judicial Precedents, or the Science of Case Law," by Henry Campbell Black, M.A.

authority which a decision in one State may have in another where the question has never been passed upon by its supreme court. Where there is this conflict of authority there is usually a "weight" or preponderance of authority, which means there is some predominance of the decisions favoring one rule over the decisions holding the contrary. This predominance may be in the number of jurisdictions which have supported one rule; tho this alone may not be sufficient. Some allowance must be made for the ability of the courts, for the importance of the point in the various jurisdictions, and for other circumstances. A decision on points of commercial law by a court of a State in which there are many commercial centers should have more weight than one in a State where trade is comparatively limited.

The following table shows the number of times the decisions of the highest courts in other jurisdictions were cited by courts of last resort in various States from January, 1919, to October, 1921,[1] and may indicate the jurisdictions whose decisions are regarded as having the greatest value: United States Supreme Court, 16,231; Massachusetts, 5,256; New York Court of Appeals, 4,222; Illinois, 3,995; California Supreme Court, 3,713; Missouri Supreme Court, 2,809; Pennsylvania, 2,642; Michigan, 2,578; Indiana Supreme Court, 2,559; Iowa, 2,523; New Jersey, 2,332; Wisconsin, 2,294; Minnesota, 2,155; Kentucky, 1,940; Texas Supreme Court, 1,895; Kansas, 1,855.

Before relying on a decision of another jurisdiction, the searcher should be sure that it is not based on a statute, in which case it may not be even persuasive authority, unless there is a statute in his own State worded similarly, or the statute, especially in a code, is declaratory,[2] that is, merely states without changing a common law principle. Decisions based on statutes usually indicate that fact, tho sometimes they do not. An effort has been and is

[1] According to a count made by the West Publishing Company.

[2] See 14 A. L. & P. 9, § 15.

being made to have all the States enact uniform laws on many commercial and on some other subjects. The Uniform Negotiable Instrument Act was the first to be urged on State legislatures, in 1896, and this Act has been adopted in all of the States, Territories, and Federal Districts of the country except Georgia and Porto Rico.[1] Other uniform laws have been enacted by a greater or less number of the States. As the object of these statutes is to make the law uniform thruout the land, a decision based on a uniform statute should have, and usually does have, great persuasive authority in another jurisdiction where the Uniform Law is in force.[2]

A "case of first impression," that is, one presenting an entirely new question of law for the first time in any jurisdiction, may not have as much weight as if there were other decisions. Not all of the possible arguments may have been presented to the court in this first case, nor all of the possible consequences of the decision may have occurred to the court; and perhaps some undesirable consequences may have arisen since or are imminent. Hence, if there is but one decision on a point, the seeker after the law must not be discouraged if the legal principle laid down therein is contrary to what he would like, especially if the case might have been decided the other way without working injustice. There are many disputes in life in which there is right on each side, and in which there may be an honest difference of opinion; yet the final decision in such cases must be against one of the parties. The first *contra* decision in any State must have been against what, up to that time, was the weight of authority. Further litigation, where there is but one case laying down a principle of law, may ultimately result in a contrary principle being adopted, even in the jurisdiction which rendered the original decision; in any event, further argument may result in some limitation, qualification, or modification of the rule.

[1] 46 Reports of American Bar Association, 713.
[2] Nortonville First State Bank *v.* William (1915), 164 Ky. 143, 175 S.W. 10.

Absence of Precedents. It is rare that a point of law arises which has not been passed upon at some time by some court in some jurisdiction where the common law prevails; but if a case should arise where a decision on a point cannot be found, all that a lawyer can do is to decide what would be equitable and just between the parties, and whether the rule, which seems applicable to the case in hand, would be a proper one to be adopted by the courts for the government of all persons similarly situated; that is, whether undesirable consequences would be likely to arise from the adoption of such a general rule. It might be advantageous, also, to discuss the facts with reliable brother lawyers of sound judgment and experience, and obtain their opinions. Sometimes textbooks and articles in legal magazines discuss situations which have never been passed upon by the courts, and if the arguments and opinions thus expressed come from persons of established reputations, they might be persuasive and of considerable weight in influencing a court. Sometimes some aid can be obtained from the Civil (Roman) Law, books concerning which can be found in any large library.

Brief Making. As the subject of brief making is not within the scope of this treatise, little has been said in regard to cases which might be the best for citation when a matter is to be presented to a court. What has been attempted chiefly is to indicate what cases might be the most useful to one seeking the law.[1]

Conclusion

In the preceding pages much information is given about law books and their use. The value of this information to the lawyer who has, or who has access to, a large law library is obvious. Without at least a part of this in-

[1]This guide has been made as brief as the subject would permit. Those desiring to pursue the subject further can read with advantage, "Brief Making—Use of Law Books, 3d edition," revised (1921), and its accompanying "Illustrative Reference Book," published by the West Publishing Company, St. Paul, Minn., which have been of great assistance to the writer in the preparation of this work.

formation, the person who goes into a law library for the first time is helpless, so far as beneficial use of it is concerned. Even the person who has grown up in a law library, so to speak, can learn much from this guide. The method of finding the law which he has learned by the old-fashioned system of trial and error, that is, by experience, may be inefficient, and may result in the loss of much time in accomplishing his purpose. Furthermore, it is probable that there are many ways of finding the law suggested in these pages which have never come to his attention and which he is not likely to discover without assistance.

While the guide should be invaluable to the person who has ready access to large law libraries, it is perhaps of greater value to those who live in rural communities and in the smaller towns and cities where there are no law libraries worthy of the name, and where even the best lawyers have comparatively few books. A mastery of what is here presented will enable such a person to acquire, in a very short time, as much skill in the use of law books, when he does have occasion to consult a law library, as it would otherwise take years to acquire. It will also enable him to get better results from the few books to which he has access at home.

Few lawyers own, or even have access to, a complete law library; nor is it necessary that they should. It is necessary, however, that they know how to use the books they have, and that they know enough about law books and law libraries, to enable them, when they go to the larger libraries for special research, to use to the best advantage the facilities afforded. If they do not have this knowledge, it may take them days to find what should require only a few minutes, or a few hours at the most.

The question is often asked, "What is the minimum library with which a young lawyer may begin practice?" The answer must depend upon circumstances. The

lawyer in the large city, where he can obtain access to extensive libraries, need not invest so heavily in law books as the lawyer in the towns and smaller cities, where he must depend upon his own resources.

Many a lawyer has begun with no library at all except perhaps a few textbooks which he used as a student. The real question is not so much, "What is the minimum?" as it is, "What books should the young lawyer buy first?" According to the opinions of a number of lawyers who have been consulted, the young lawyer should add books to his library in the following order:

1. The State statutes.
2. Pleading and Practice form books—particularly the practice books designed especially for use in his State—including books on Probate and Justice Court Practice. (See page 62.)
3. A general form book.
4. A law dictionary.
5. The Federal Statutes (inexpensive edition).
6. A book containing a summary of the laws of the several States, such as is given in some of the legal directories. (See page 63.)
7. An encyclopedia of law. (See page 45 *et seq.*)
8. The reports of the supreme court of his State.
9. A digest for the set of reports purchased.
10. A citator for his State. (See page 61.)
11. Good textbooks upon subjects in which he is interested because of the nature of his practice.

By the time the lawyer has reached this point in building his library he will know enough about law books and the requirements of his business to make him a better judge as to his own needs than anyone else.

What books the beginning lawyer should purchase first should depend upon the library facilities to which he has easy access. In many cities there are large law libraries the use of which may be had by the payment of a nominal

fee. Lawyers as a class are very generous with each other in permitting the use of their libraries. It should not, therefore, be necessary for the lawyer who is just entering practice to purchase immediately expensive books that are in the libraries of other lawyers in his city.

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